

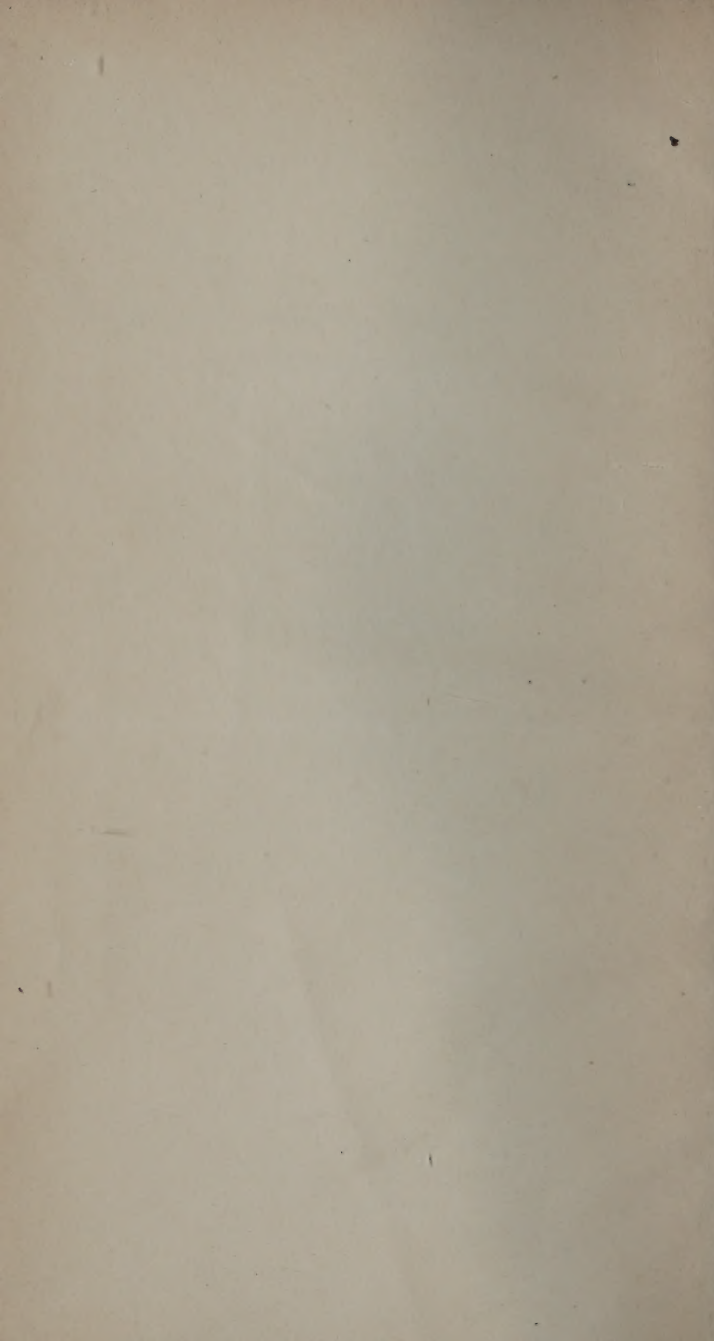


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LETTERS

BETWEEN

JAMES MONROE, ESQ.

Secretary of State of the United States,

✓ AND

AUGUSTUS J. FOSTER, ESQ.

Envoy Extraordinary and Minister Plenipotentiary of his
Britannic Majesty;

IN RELATION TO THE

ORDERS IN COUNCIL,

AND THE AFFAIR OF

THE LITTLE BELT.

TO WHICH IS ADDED,

THE DECLARATION OF WAR.

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LETTERS, &c.

Mr. Foster to Mr. Monroe.

Washington, July 2d, 1811.

SIR,

I HAVE the honor to inform you, that I have received the special commands of his royal highness the prince regent, acting in the name and on the behalf of his majesty, to make an early communication to you of the sentiments which his royal highness was pleased, on the part of his majesty, to express to Mr. Pinkney, upon the occasion of his audience of leave.

His royal highness signified to Mr. Pinkney, the deep regret with which he learnt that Mr. Pinkney conceived himself to be bound by the instructions of his government to take his departure from England.

His royal highness informed Mr. Pinkney, that one of the earliest acts of his government, in the name and on the behalf of his majesty, was to appoint an envoy extraordinary and minister plenipotentiary to the government of the United States; and added, that this appointment had been made in the spirit of amity, and with a view of maintaining the subsisting relations of friendship between the two countries.

His royal highness further declared to Mr. Pinkney, that he was most sincerely and anxiously desirous, on the part of his majesty, to cultivate a good understanding with the United States, by every means consistent with the preservation of the maritime rights and interests of the British empire.

His royal highness particularly desired, that Mr. Pinkney would communicate these declarations to the United States in the manner which might appear best calculated to satisfy the president of his royal highness' solicitude to facilitate an amicable discussion with the government of the United States, upon every point of difference which had arisen between the two governments.

I have the honor to be, &c. &c. &c.

(Signed)

AUGS. J. FOSTER.

The honorable James Monroe, &c. &c. &c.

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 3d, 1811.

I have had the honor of stating to you, verbally, the system of defence to which his majesty has been compelled to resort, for the purpose of protecting the maritime rights and interests of his dominions against the new description of warfare that has been adopted by his enemies. I have presented to you, the grounds upon which his majesty finds himself still obliged to continue that system; and I conceive that I shall best meet your wishes, as expressed to me this morning, if in a more formal shape, I should lay before you, the whole extent of the question, as it appears to his majesty's government, to exist between Great Britain and America.

I beg leave to call your attention, sir, to the principles on which his majesty's orders in council were originally founded. The decree of Berlin was directly and expressly an act of war, by which France prohibited all nations from trade or intercourse with Great Britain, under peril of confiscation of their ships and merchandise; although France had not the means of imposing an actual blockade, in any degree adequate to such a purpose. The immediate and professed object of this hostile decree, was the destruction of all British commerce, through means entirely unsanctioned by the law of nations, and unauthorised by any received doctrine of legitimate blockade.

This violation of the established law of civilized nations in war, would have justified Great Britain in retaliating upon the enemy, by a similar interdiction of all commerce with France, and with such other countries, as might co-operate with France in her system of commercial hostility against Great Britain.

The object of Great Britain was not, however, the destruction of trade, but its preservation, under such regulations as might be compatible with her own security; at the same time that she extended an indulgence to foreign commerce, which strict principles would have entitled her to withhold. The retaliation of Great Britain was not, therefore, urged to the full extent of her right; our prohibition of French trade, was not absolute, but modified, and in return for the absolute prohibition of all trade with Great Britain, we prohibited not all commerce with France, but all such commerce with France, as should not be carried on through Great Britain.

It was evident that this system must prove prejudicial to neutral nations: this calamity was foreseen, and deeply regretted; but the injury to the neutral nation, arose from the aggression of France, which had compelled Great Britain, in her own defence, to resort to adequate retaliatory measures of

war. The operation on the American commerce, of those precautions, which the conduct of France had rendered indispensable to our security, is therefore to be ascribed to the unwarrantable aggression of France; and not to those proceedings on the part of Great Britain, which that aggression had rendered necessary and just.

The object of our system, was merely to counteract an attempt to crush the British trade. Great Britain endeavored to permit the continent to receive as large a portion of commerce as might be practicable through Great Britain; and all her subsequent regulations, and every modification of her system, by new orders or modes of granting or withholding licences, have been calculated for the purpose of encouraging the trade of neutrals through Great Britain, wherever such encouragement might appear advantageous to the general interests of commerce, and consistent with the public safety of the nation.

The justification of his majesty's orders in council, and the continuance of that defence, have always been rested upon the existence of the decrees of Berlin and Milan; and on the perseverance of the enemy in the system of hostility which has subverted the rights of neutral commerce on the continent: and it has always been declared, on the part of his majesty's government, that whenever France should have effectually repealed the decrees of Berlin and Milan, and should have restored neutral commerce to the condition in which it stood, previously to the promulgation of those decrees, we should immediately repeal our orders in council.

France has asserted, that the decree of Berlin was a measure of just retaliation on her part, occasioned by our previous aggression; and the French government has insisted that our system of blockade, as it existed previously to the decree of Berlin, was a manifest violation of the received law of nations. We must, therefore, sir, refer to the articles of the Berlin decree, to find the principles of our system of blockade, which France considers to be new, and contrary to the law of nations.

By the 4th and 8th articles, it is stated, as a justification of the French decree, that Great Britain "extends to unfortified towns, and commercial ports, to harbors, and to the mouths of rivers, those rights of blockade, which by reason and the usage of nations, are applicable only to fortified places; and that the rights of blockade ought to be limited to fortresses, really invested by a sufficient force."

It is added in the same articles, that Great Britain "has declared places to be in a state of blockade, before which she has not a single ship of war, and even places which the whole

British force would be insufficient to blockade, entire coasts and a whole empire."

Neither the practice of Great Britain, nor the law of nations, has ever sanctioned the rule now laid down by France, that no place excepting fortresses in a complete state of investiture can be deemed lawfully blockaded by sea.

If such a rule were to be admitted, it would become nearly impracticable for Great Britain to attempt the blockade of any port of the continent; and our submission to this perversion of the law of nations, while it would destroy one of the principal advantages of our naval superiority, would sacrifice the common rights and interests of all maritime states.

It was evident that the blockade of May, 1806, was the principal pretended justification of the decree of Berlin, though neither the principles on which that blockade was founded, nor its practical operation, afforded any colour for the proceedings of France.

In point of date the blockade of May, 1806, preceded the Berlin decree; but it was a just and legal blockade according to the established law of nations, because it was intended to be maintained, and was actually maintained, by an adequate force appointed to guard the whole coast described in the notification, and consequently to enforce the blockade.

Great Britain has never attempted to dispute that in the ordinary course of the law of nations, no blockade can be justifiable or valid unless it be supported by an adequate force destined to maintain it, and to expose to hazard all vessels attempting to evade its operation. The blockade of May, 1806, was notified by Mr. Secretary Fox, on this clear principle, nor was that blockade announced until he had satisfied himself by a communication with his majesty's board of admiralty, that the admiralty possessed the means and would employ them, of watching the whole coast from Brest to the Elbe, and of effectually enforcing the blockade.

The blockade of May, 1806, was therefore (according to the doctrine maintained by Great Britain) just and lawful in its origin, because it was supported both in intention and fact by an adequate naval force. This was the justification of that blockade, until the period of time when the orders in council were issued.

The orders in council were founded on a distinct principle—that of defensive retaliation. France had declared a blockade of all the ports and coasts of Great Britain and her dependencies, without assigning, or being able to assign any force to support that blockade. Such an act of the enemy would have justified a declaration of the blockade of the whole coast of France, even without the application of any particular force

to that service. Since the promulgation of the orders in council the blockade of May, 1806, has been sustained and extended by the more comprehensive system of defensive retaliation on which those regulations were founded. But if the orders in council should be abrogated, the blockade of May, 1806, could not continue under our construction of the law of nations, unless that blockade should be maintained by a due application of an adequate naval force.

America appears to concur with France in asserting, that Great Britain was the original aggressor in the attack on neutral rights, and has particularly objected to the blockade of May, 1806, as an obvious instance of that aggression on the part of Great Britain.

Although the doctrines of the Berlin decree respecting the rights of blockade, are not directly asserted by the American government, Mr. Pinkney's correspondence would appear to countenance the principles on which those doctrines are founded. The objection directly stated by America against the blockade of May, 1806, rests on a supposition that no naval force which Great Britain possessed, or could have employed for such a purpose, could have rendered that blockade effectual, and that therefore it was necessarily irregular, and could not possibly be maintained in conformity to the law of nations:

Reviewing the course of this statement, it will appear that the blockade of May, 1806, cannot be deemed contrary to the law of nations, either under the objections urged by the French, or under those declared or insinuated by the American government, because that blockade was maintained by a sufficient naval force: that the decree of Berlin was not therefore justified either under the pretexts alledged by France, or under those supported by America; that the orders in council were founded on a just principle of defensive retaliation against the violation of the law of nations committed by France in the decree of Berlin; that the blockade of May, 1806, is now included in the more extensive operation of the orders in council; and lastly, that the orders in council will not be continued beyond the effectual duration of the hostile decrees of France; nor will the blockade of May, 1806, continue, after the repeal of the orders in council, unless his majesty's government shall think fit to sustain it by the special application of a sufficient naval force. This fact will not be suffered to remain in doubt; and if the repeal of the orders in council should take place, the intention of his majesty's government, respecting the blockade of May, 1806, will be notified at the same time.

I need not recapitulate to you, the sentiments of his ma-

jesty's government, so often repeated on the subject of the French minister's note to General Armstrong, dated the 5th of last August. The studied ambiguity of that note, has since been amply explained, by the conduct and language of the government of France; of which one of the most remarkable instances is to be found in the speech of the chief of the French government, on the 17th of last month, to certain deputies from the free cities of Hamburgh, Bremen, and Lubeck; wherein he declares, that the Berlin and Milan decrees, shall be the public code of France, as long as England maintains her orders in council, of 1806 and 1807. Thus pronouncing, as plainly as language will admit, that the system of violence and injustice, of which he is the founder, will be maintained by him, until the defensive measures of retaliation, to which they gave rise, on the part of Great Britain, shall be abandoned.

If other proofs were necessary to show the continued existence of those obnoxious decrees, they may be discovered in the imperial edict dated at Fontainebleau in October 19th, 1810, that monstrous production of violence, in which they are made the basis of a system of general and unexampled tyranny and oppression over all the countries subject to, allied with, or within reach of the power of France; in the report of the French minister for foreign affairs, dated last December, and in the letter of the French minister of justice to the president of the council of prizes; to this latter, sir, I would wish particularly to invite your attention; the date is the 25th December, the authority it comes from most unquestionable, and you will there find, sir, the duke of Massa in giving his instructions to the council of prizes, in consequence of the president of the United States' proclamation of November 3d, most cautiously avoiding to assert that the French decrees were repealed, and ascribing not to such repeal, but to the ambiguous passage which he quotes at length from Mr. Champagny's letter of August 5, the new attitude taken by America; and you will also find an evidence in the same letter of the continued capture of American ships after November 1, and under the Berlin and Milan decrees, having been contemplated by the French government, since there is a special direction given for judgment on such ships being suspended in consequence of the American proclamation, and for their being kept as pledges for its enforcement.

Can, then, sir, those decrees be said to have been repealed at the period when the proclamation of the President of the United States appeared, or when America enforced her non-importation act against Great Britain? Are they so at this moment? To the first question, the state papers which I have

referred to appear to give a sufficient answer: for even supposing that the repeal had since taken place, it is clear that on November 3, there was no question as to that not being then the case; the capture of the ship *New-Orleans* packet, seized at *Bordeaux*, and of the *Grace Ann Green*, seized at or carried into *Marseilles*, being cases arising under the French decrees of *Berlin* and *Milan*, as is very evident. Great Britain might therefore complain of being treated with injustice by America, even supposing that the conduct of France had since been unequivocal.

America contends that the French decrees are revoked as it respects her ships upon the high seas, and you, sir, inform me that the only two American ships taken under their maritime operation, as you are pleased to term it, since November 1, have been restored; but may not they have been restored in consequence of the satisfaction felt in France at the passing of the non-importation act in the American Congress, an event so little to be expected: for otherwise why having been captured in direct contradiction to the supposed revocation, why were they not restored immediately?

The fears of the French navy however prevent many cases of the kind occurring on the ocean under the decrees of *Berlin* and *Milan*; but the most obnoxious and destructive parts of those decrees are exercised with full violence, not only in the ports of France, but in those of all other countries to which France thinks she can commit injustice with impunity.

Great Britain has a right to complain that neutral nations should overlook the very worst features of those extraordinary acts, and should suffer their trade to be made a medium of an unprecedented, violent, and monstrous system of attack upon her resources, a species of warfare unattempted by any civilized nation before the present period. Not only has America suffered her trade to be moulded into the means of annoyance to Great Britain under the provisions of the French decrees, but construing those decrees as extinct upon a deceitful declaration of the French cabinet, she has enforced her non-importation act against Great Britain.

Under these circumstances, I am instructed by my government to urge to that of the United States, the injustice of thus enforcing that act against his majesty's dominions; and I cannot but hope that a spirit of justice will induce the United States' government to reconsider the line of conduct they have pursued, and at least to re-establish their former state of strict neutrality.

I have only to add, sir, that on my part I shall ever be ready to meet you on any opening which may seem to afford

a prospect of restoring complete harmony between the two countries, and that it will at all times give me the greatest satisfaction to treat with you on the important concerns so interesting to both.

I have the honor to be, &c.

(Signed)

AUGS. J. FOSTER.

The Hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Foster.

SIR,

Department of State, July 6th, 1811.

I have had the honor to receive your letter of the 2d inst. in which you express the regret of his royal highness the prince regent, at the departure of the American minister from Great Britain, and state that it was one of the first acts of his government to appoint an envoy extraordinary and minister plenipotentiary to the government of the United States, with a view of maintaining the subsisting relations of friendship between the two countries, and that he was solicitous to facilitate an amicable discussion with the government of the United States, upon every point of difference which had arisen between the two governments.

I am instructed by the President to acknowledge to you the great satisfaction which he has derived from the communication which you have made, of the disposition of his royal highness, the prince regent, to cultivate friendship with the United States, and to assure you, that the prompt and friendly measure, which he adopted, by the appointment of an envoy extraordinary and minister plenipotentiary to this country, to maintain the relations of friendship, and facilitate an amicable discussion on every point of difference that had arisen between the two governments, is considered as a favorable and interesting proof of that disposition.

I am also instructed by the President, to state his ready disposition to meet in a similar spirit, these frank and friendly assurances of the prince regent, and that nothing will be wanting on his part, consistent with the rights of the United States, that may be necessary to promote the re-establishment, in all respects, of that good understanding between the two countries, which he considers to be highly important to the interests of both.

Permit me to add, sir, that if, as the organ of my government, I can be, in any degree, instrumental, in concert with you, in promoting such a result, I shall derive from it a very great and sincere satisfaction.

I have the honor to be, &c.

(Signed)

JAMES MONROE

Augustus J. Foster, Esquire, &c. &c.

Mr. Foster to Mr. Monroe.

SIR, *Washington, July 7th, 1811.*

I beg leave to acknowledge the receipt of your letter dated yesterday, in answer to mine of the 2d inst. and to assure you that it gives me very sincere pleasure to have to transmit, for the purpose of being laid before his royal highness the prince regent acting in the name and on the behalf of his majesty, so satisfactory a testimony of the amicable manner in which the president of the United States has received the instances and assurances of a friendly disposition on the part of his royal highness towards the United States, which by command of his royal highness I had the honor to communicate to the President through you.

The assurances which you have added, sir, of the gratification that you would yourself derive if, as the organ of your government, you could be instrumental towards re-establishing a good understanding between both our countries, are too congenial with my own feelings on the subject not to be received with very high satisfaction.

I have the honor to be, &c.

(Signed) AUGS. J. FOSTER.

The Hon. James Monroe, Secretary of State.

Mr. Foster to Mr. Monroe.

SIR, *Washington, July 11th, 1811.*

In consequence of our conversation of yesterday, and the observations which you made respecting that part of my letter to you of the 3d instant, wherein I have alluded to the principle on which his majesty's orders in council were originally founded, I think it right to explain myself, in order to prevent any possible mistake as to the present situation of neutral trade with his majesty's enemies.

It will only be necessary for me to repeat what has already long since been announced to the American government, namely, that his majesty's order in council of April 26, 1809, superseded those of November, 1807, and relieved the system of retaliation adopted by his majesty against his enemies from what was considered in this country as the most objectionable part of it, the option given to neutrals to trade with the enemies of Great Britain, through British ports, on payment of a transit duty.

This explanation, sir, will, I trust, be sufficient to do away any impression that you may have received to the contrary, from my observations respecting the effects which his majesty's orders in council originally had on the trade of neutral nations. Those observations were merely meant as prelimi-

nary to a consideration of the question now at issue between the two countries.

I have the honor to be, &c. &c.

(Signed)

AUGS. J. FOSTER.

The honorable James Monroe, &c. &c.

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 14th, 1811.

His majesty's packet boat having been seen so long detained, and a fortnight having elapsed since my arrival at this capital, his royal highness the prince regent will necessarily expect that I should have to transmit to his royal highness some official communication as to the line of conduct the American government mean to pursue. I trust you will excuse me, therefore, sir, if without pressing for a detailed answer to my note of the 3d instant, I anxiously desire to know from you what is the President's determination with respect to suspending the operation of the late act of Congress prohibiting all importation from the British dominions.

There have been repeated avowals lately made by the government of France, that the decrees of Berlin and Milan are still in full force, and the acts of that government have corresponded with those avowals.

The measures of retaliation pursued by Great Britain against those decrees are consequently to the great regret of his royal highness still necessarily continued.

I have had the honor to state to you the light in which his royal highness the prince regent viewed the proclamation of the President of last November, and the surprise with which he learnt the subsequent measures of Congress against the British trade.

American ships seized under his majesty's orders in council, even after that proclamation appeared, were not immediately condemned, because it was believed that the insidious professions of France might have led the American government and the merchants of America into an erroneous construction of the intentions of France.

But when the veil was thrown aside, and the French ruler himself avowed the continued existence of his invariable system, it was not expected by his royal highness that America would have refused to retrace the steps she had taken.

Fresh proofs have since occurred of the resolution of the French government to cast away all consideration of the rights of nations in the unprecedented warfare they have adopted.

America however still persists in her injurious measures against the commerce of Great Britain, and his royal high-

ness has in consequence been obliged to look to means of retaliation against those measures which his royal highness cannot but consider as most unjustifiable.

How desirable would it not be, sir, if a stop could be put to any material progress in such a system of retaliation, which from step to step may lead to the most unfriendly situation between the two countries?

His majesty's government will necessarily be guided in a great degree by the contents of my first despatches as to the conduct they must adopt towards America.

Allow me then, sir, to repeat my request to learn from you whether I may not convey to his royal highness what I know would be most grateful to his royal highness' feelings, namely, the hope that he may be enabled by the speedy return of America from her unfriendly attitude towards Great Britain, to forget altogether that he ever was obliged to have any other object in view besides that of endeavoring to promote the best understanding possible between the two countries.

I have the honor to be, &c. &c.

(Signed.)

AUG. J. FOSTER.

The honorable James Monroe, &c. &c.

Mr. Monroe to Mr. Foster.

SIR, *Department of State, 15th July, 1811.*

The reasoning and scope of the two orders I have had the honor to receive from you, dated on the 3d and 14th inst. rest essentially on a denial that the French decrees of Berlin and Milan are repealed. These decrees comprise regulations essentially different in their principles; some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

In order to understand distinctly and fully the tenor of your communications, you will pardon the request I have the honor to make, of an explanation of the precise extent in which a repeal of the French decrees is made a condition of the repeal of the British orders; and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to, or from British ports, or that they have on board British productions or manufactures.

I have the honor to be, &c.

(Signed)

JAS. MONROE.

Mr. Foster to Mr. Monroe.

SIR, *Washington, July 16, 1811.*

I had the honor to receive the letter which you addressed to me under yesterday's date, requesting an explanation from me, in consequence of my letters of the 3d and 14th instant of the precise extent in which a repeal of the French decrees is by his majesty's government made a condition of the repeal of the British orders, and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to or from British ports, or that they have on board British productions or manufactures; as also stating, that in your view of the French decrees, they comprise regulations essentially different in their principles, some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

You will permit me, sir, for the purpose of answering your questions as clearly and concisely as possible, to bring into view the French decrees themselves, together with the official declarations of the French minister, which accompanied them.

In the body of those decrees, and in the declarations alluded to, you will find, sir, express avowals, that the principles on which they were founded, and the provisions contained in them, are wholly new, unprecedented, and in direct contradiction to all ideas of justice and the principles and usages of all civilized nations.

The French government did not pretend to say, that any one of the regulations, contained in those decrees was a regulation which France had ever been in the previous practice of.

They were consequently to be considered, and were indeed allowed by France herself to be, all of them, parts of a new system of warfare, unauthorised by the established laws of nations.

It is in this light, in which France herself has placed her decrees, that Great Britain is obliged to consider them.

The submission of neutrals to any regulations made by France, authorised by the laws of nations, and practised in former wars, will never be complained of by Great Britain; but the regulations of the Berlin and Milan decrees do, and are declared to, violate the laws of nations and the rights of neutrals, for the purpose of attacking through them the resources of Great Britain. The ruler of France has drawn no distinction between any of them, nor has he declared the ces

sation of any one of them in the speech which he so lately addressed to the deputation from the free imperial Hanse Towns, which was on the contrary a confirmation of them all.

Not until the French decrees, therefore, shall be effectually repealed, and thereby neutral commerce be restored to the situation in which it stood previously to their promulgation, can his royal highness conceive himself justified, consistently with what he owes to the safety and honour of Great Britain, in foregoing the just measures of retaliation, which his majesty, in his defence, was necessitated to adopt against them.

I trust, sir, that this explanation, in answer to your inquiries, will be considered by you sufficiently satisfactory; should you require any further, and which it may be in my power to give, I shall, with the greatest cheerfulness, afford it.

I sincerely hope, however, that no further delay will be thought necessary by the President in restoring the relations of amity, which should ever subsist between America and Great Britain, as the delusions attempted by the government of France have now been made manifest, and the perfidious plans of its ruler exposed, by which, while he adds to, and aggravates, his system of violence against neutral trade, he endeavours to throw all the odium of his acts upon Great Britain, with a view to engender discord between the neutral countries and the only power which stands up as a bulwark against his efforts at universal tyranny and oppression.

Excuse me, sir, if I express my wish as early as possible to despatch his majesty's packet boat, with the result of our communications; as his majesty's government will necessarily be most anxious to hear from me. Any short period of time, however, which may appear to you to be reasonable, I will not hesitate to detain her.

I have the honour to be, &c. &c.

(Signed)

AUG. J. FOSTER.

The honourable James Monroe, &c. &c.

Mr. Monroe to Mr. Foster.

SIR,

Department of State, July 23.

I have submitted to the President your several letters of the 3d and 16th of this month, relative to the British orders in council, and the blockade of May, 1806, and I have now the honour to communicate to you his sentiments on the view which you have presented of those measures of your government.

It was hoped that your communication would have led to an immediate accommodation of the differences subsisting be-

tween our countries, on the ground, on which alone, it is possible to meet you. It is regretted that you have confined yourself to a vindication of the measures which produced some of them.

The United States are as little disposed, now, as heretofore, to enter into the question concerning the priority of aggression, by the two belligerents, which could not be justified by either, by the priority of those of the other. But as you bring forward that plea in support of the orders in council, I must be permitted to remark, that you have yourself furnished a conclusive answer to it, by admitting that the blockade of May, 1806, which was prior to the first of the French decrees, would not be legal, unless supported through the whole extent of the coast, from the Elbe to Brest, by an adequate naval force. That such a naval force was actually applied, and continued, in the requisite strictness, until that blockade was comprized in, and superseded by, the orders of November of the following year, or even until the French decree of the same year, will not, I presume, be alleged.

But waving this question of priority, can it be seen without both surprise and regret, that it is still contended, that the orders in council are justified by the principle of retaliation, and that this principle is strengthened by the inability of France to enforce her decrees. A retaliation is in its name, and its essential character, a returning a like for like. Is the deadly blow of the orders in council against one half of our commerce, a return of like for like to an empty threat in the French decrees against the other half? It may be a vindictive hostility, as far as its effect falls on the enemy. But when falling on a neutral, who on no pretext can be liable for more than the measure of injury received through such neutral, it would not be a retaliation, but a positive wrong, by the plea on which it is founded.

It is to be further remarked that the orders in council went even beyond the plea, such as this has appeared to be, in extending its operation against the trade of the United States, with nations which like Russia had not adopted the French decrees, and with all nations which had merely excluded the British flag; an exclusion resulting as matter of course, with respect to whatever nation Great Britain might happen to be at war.

I am far from viewing the modification originally contained in these orders, which permits neutrals to prosecute their trade with the continent, through Great Britain, in the favorable light in which you represent it. It is impossible to proceed to notice the effect of this modification without expressing our astonishment at the extravagance of the politi-

cal pretension set up by it: a pretension which is utterly incompatible with the sovereignty and independence of other states. In a commercial view it is not less objectionable as it cannot fail to prove destructive to neutral commerce. As an enemy, Great Britain cannot trade with France. Nor does France permit a neutral to come into her ports from Great Britain. The attempt of Great Britain to force our trade through her ports, would have therefore the commercial effect of depriving the United States altogether of the market of her enemy for their productions, and of destroying their value in her market by a surcharge of it. Heretofore it has been the usage of belligerent nations to carry on their trade through the intervention of neutrals, and this had the beneficial effect of extending to the former the advantages of peace, while suffering under the calamities of war. To reverse the rule, and to extend to nations at peace the calamities of war, is a change as novel and extraordinary as it is at variance with justice and public law.

Against this unjust system, the United States entered at an early period, their solemn protest. They considered it their duty to evince to the world their high disapprobation of it, and they have done so by such acts as were deemed most consistent with the rights and the policy of the nation, Remote from the contentious scene which desolates Europe, it has been their uniform object to avoid becoming a party to the war. With this view they have endeavoured to cultivate friendship with both parties, by a system of conduct which ought to have produced that effect. They have done justice to each party in every transaction in which they have been separately engaged with it. They have observed the impartiality which was due to both as belligerents standing on equal ground, having in no instance given a preference to either at the expense of the other. They have borne too, with equal indulgence, injuries from both, being willing while it was possible to impute them to casualties inseparable from a state of war, and not to a deliberate intention to violate their rights. And even when that intention could not be mistaken, they have not lost sight of the ultimate object of their policy. In the measures to which they have been compelled to resort, they have in all respects maintained pacific relations with both parties. The alternative presented by their late acts, was offered equally to both, and could operate on neither, no longer than it should persevere in its aggressions on our neutral rights. The embargo and non-intercourse were pacific measures. The regulations which they imposed on our trade were such as any nation might

adopt in peace or war, without offence to any other nation. The non-importation is of the same character; and if it makes a distinction at this time in its operation between the belligerents, it necessarily results from a compliance of one, with the offer made to both, and which is still open to the compliance of the other.

In the discussions which have taken place on the subject of the orders in council and blockade of May, 1806, the British government, in conformity to the principle on which the orders in council are said to be founded, declared that they should cease to operate as soon as France revoked her edicts. It was stated also that the British government would proceed *pari passu* with the government of France in the revocation of her edicts. I will proceed to shew that the obligation on Great Britain to revoke her orders is complete, according to her own engagement, and that the revocation ought not to be longer delayed.

By the act of May 1st, 1810, it is provided that if either Great Britain or France should cease to violate the neutral commerce of the United States, which fact the President should declare by proclamation, and the other party should not within three months thereafter revoke or modify its edicts in like manner, that then certain sections in a former act interdicting the commercial intercourse between the United States and Great Britain and France and their dependencies, should from and after the expiration of three months from the date of the proclamation, be revived, and have full force against the former, its colonies and dependencies, and against all articles the growth, produce or manufacture of the same.

The violations of neutral commerce alluded to in this act were such as were committed on the high seas. It was in the trade between the United States and the British dominions, that France had violated the neutral rights of the United States, by her blockading edicts. It was in the trade with France and her allies, that Great Britain had committed similar violations, by similar edicts. It was the revocation of those edicts, so far as they committed such violations, which the United States had in view, when they passed the law of May 1st, 1810.

On the 5th August 1810, the French minister of foreign affairs addressed a note to the minister plenipotentiary of the United States at Paris, informing him that the decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st of November following: that the measure had been taken by his government, in confidence that the British government would revoke its orders, and renounce its new prin-

ciple of blockade, or that the United States would cause their rights to be respected, conformably to the act of May 1st, 1810.

This measure of the French government was founded on the law of May 1st, 1810 as is expressly declared in the letter of the duke of Cadore announcing it. The edicts of Great Britain, the revocation of which were expected by France, were those alluded to in that act, and the means by which the United States should cause their rights to be respected, in case Great Britain should not revoke her edicts, were likewise to be found in the same act. They consisted merely in the enforcement of the non-importation act against Great Britain, in that unexpected and improbable contingency.

The letter of the 5th August, which announced the revocation of the French decrees, was communicated to this government, in consequence of which the President issued a proclamation on the 2d November, the day after that on which the repeal of the French decrees was to take effect, in which he declared, that all the restrictions imposed by the act of May 1st, 1810, should cease and be discontinued in relation to France and her dependencies. It was a necessary consequence of this proclamation also, that if Great Britain did not revoke her edicts the non-importation would operate against her at the end of three months. This actually took place. She declined the revocation, and on the 2d of February last, that law took effect. In confirmation of the proclamation an act of Congress was passed on the 2d of March following.

Great Britain still declines to revoke her edicts on the pretension that France has not revoked hers. Under that impression she infers that the United States have done her injustice by carrying into effect the non-importation against her.

The United States maintain that France has revoked her edicts so far as they violated their neutral rights and were contemplated by the law of May 1st, 1810, and have on that ground particularly claimed and do expect of Great Britain a similar revocation.

The revocation announced officially by the French minister of foreign affairs to the minister plenipotentiary of the United States at Paris, on the 5th of August, 1810, was in itself sufficient to justify the claim of the United States to a correspondent measure from Great Britain. She had declared that she would proceed *pari passu* in the repeal with France, and the day being fixed when the repeal of the French decrees should take effect, it was reasonable to conclude that Great Britain would fix the same day for the repeal of her orders.

Had this been done, the proclamation of the President would have announced the revocation of the edicts of both powers at the same time, and in consequence thereof the non-importation would have gone into operation against neither. Such too is the natural course of proceeding in transactions between independent states; and such the conduct which they generally observe towards each other. In all compacts between nations, it is the duty of each to perform what it stipulates, and to presume on the good faith of the other, for a like performance. The United States having made a proposal to both belligerents were bound to accept a compliance from either, and it was no objection to the French compliance, that it was in a form to take effect at a future day, that being a form not unusual in laws and other public acts. Even when nations are at war, and make peace, this obligation of mutual confidence exists, and must be respected. In treaties of commerce, by which their future intercourse is to be governed, the obligation is the same. If distrust and jealousy are allowed to prevail, the moral tie which binds nations together, in all their relations, in war as well as in peace, is broken.

What would Great Britain have hazarded by a prompt compliance in the manner suggested? She had declared that she had adopted the restraints imposed by her orders in council with reluctance, because of their distressing effect on neutral powers. Here then was a favorable opportunity presented to her, to withdraw from that measure with honor, be the conduct of France afterwards what it might. Had Great Britain revoked her orders, and France failed to fulfil her engagement, she would have gained credit at the expense of France, and could have sustained no injury by it, because the failure of France to maintain her faith would have replaced Great Britain at the point from which she had departed. To say that a disappointed reliance on the good faith of her enemy, would have reproached her foresight, would be to set a higher value on that quality than on consistency and good faith, and would sacrifice to a mere suspicion towards an enemy, the plain obligations of justice towards a friendly power.

Great Britain has declined proceeding *pari passu* with France, in the revocation of their respective edicts. She has held aloof and claims of the United States proof, not only that France has revoked her decrees, but that she continues to act in conformity with the revocation.

To shew that the repeal is respected, it is deemed sufficient to state, that not one vessel has been condemned by French tribunals, on the principle of those decrees, since the 1st of November last. The New Orleans packet, from Gibraltar to Bordeaux, was detained, but never condemned. The

Grace Ann Green, from the same British port, to Marseilles, was likewise detained, but afterwards delivered up, unconditionally, to the owner; as was such part of the cargo of the New Orleans Packet, as consisted of the produce of the United States. Both these vessels proceeding from a British port, carried cargoes, some articles of which in each, were prohibited by the laws of France, or admissible by the sanction of the government alone. It does not appear that their detention was imputable to any other cause. If imputable to the circumstance of passing from a British to a French port, or on account of any part of their cargoes, it affords no cause of complaint to Great Britain, as a violation of our neutral rights. No such cause would be afforded, even in a case of condemnation. The right of complaint would have belonged to the United States.

In denying the revocation of the decrees, so far as it is a proper subject of discussion between us, it might reasonably be expected that you would produce some examples of vessels taken at sea in voyages to British ports, or on their return home, and condemned under them, by a French tribunal. None such has been afforded by you: none such are known to this government.

You urge only, as an evidence that the decrees are not repealed, the speech of the emperor of France to the deputies from the free cities of Hamburg, Bremen, and Lubeck; the imperial edict, dated at Fontainebleau, on the 19th October, 1810; the report of the French minister of foreign affairs, dated in December last, and a letter of the minister of justice to the president of the council of prizes, of the 25th of that month.

There is nothing in the first of these papers, incompatible with the revocation of the decrees, in respect to the United States. It is distinctly declared by the emperor, in his speech to the deputies of the Hanse Towns, that the blockades of the British islands shall cease, when the British blockades cease; and that the French blockade shall cease in favor of those nations in whose favor Great Britain revokes hers, or who support their rights against her pretension, as France admits the United States will do, by enforcing the non-importation act. The same sentiment is expressed in the report of the minister of foreign affairs. The decree of Fontainebleau, having no effect on the high seas, cannot be brought into this discussion. It evidently has no connection with neutral rights. The letter from the minister of justice, to the president of the council of prizes, is of a different character. It relates in direct terms to this subject, but not in the sense in which you understand it. After reciting the note from the duke of

Cadore, of the 5th August last, to the American minister at Paris, which announced the repeal of the French decrees, and the proclamation of the President in consequence of it, it states that all causes arising under those decrees, after the 1st of November, which were then before the court, or might afterwards be brought before it, should not be judged by the principles of the decrees, but be suspended until the 2d February, when the United States having fulfilled their engagement, the captures should be declared void, and the vessels and their cargoes, delivered up to their owners. This paper appears to afford an unequivocal evidence of the revocation of the decrees, so far as relates to the United States. By instructing the French tribunal to make no decision until the 2d February, and then to restore the property to the owners, on a particular event, which has happened, all cause of doubt on that point seems to be removed. The United States may justly complain of delay in the restitution of that property, but that is an injury which affects them only. Great Britain has no right to complain of it. She was interested only in the revocation of the decrees, by which neutral rights would be secured from future violation; or if she had been interested in the delay, it would have afforded no pretext for more than a delay in repealing her orders till the 2d February. From that day at farthest, the French decrees would cease. At the same day ought her orders to have ceased. I might add to this statement, that every communication received from the French government, either through our representative there, or its representative here, are in accord with the actual repeal of the Berlin and Milan decrees, in relation to the neutral commerce of the United States. But it will suffice to remark, that the best, and only adequate evidence of their ceasing to operate, is the defect of evidence that they do operate. It is a case where the want of proof against the fulfilment of a pledge, is proof of the fulfilment. Every case occurring, to which if the decrees were in force, they would be applied, and to which they are not applied, is a proof that they are not in force. And if these proofs have not been more multiplied, I need not remind you, that a cause is to be found, in the numerous captures under your orders in council, which continue to evince the rigor with which they are enforced, after a failure of the basis on which they were supposed to rest.

But Great Britain contends, as appears by your last letter, that she ought not to revoke her orders in council, until the commerce of the continent is restored to the state on which it stood, before the Berlin and Milan decrees issued; until the French decrees are repealed, not only as to the United States,

but so as to permit Great Britain to trade with the continent. Is it then meant, that G. Britain should be allowed to trade with all the powers with whom she traded at that epoch? Since that time, France has extended her conquests to the north, and raised enemies against Great Britain where she then had friends. Is it proposed to trade with them, notwithstanding the change in their situation? Between the enemies of one date, and those of another, no discrimination can be made: there is none in reason, nor can there be any of right, in practice. Or do you maintain the general principle, and contend that Great Britain ought to trade with France and her allies? Between enemies there can be no commerce. The vessels of either, taken by the other, are liable to confiscation, and are always confiscated. The number of enemies, or extent of country which they occupy, cannot affect the question. The laws of war govern the relation which subsists between them, which especially, in the circumstance under consideration, are invariable. They were the same, intimes the most remote, that they now are. Even if peace had taken place between Great Britain and the powers of the continent, she could not trade with them without their consent. Or does Great Britain contend, that the United States, as a neutral power, ought to open the continent to her commerce, on such terms as she may designate? On what principle can she set up such a claim? No example of it can be found in the history of past wars, nor is it founded in any recognized principle of war, or in any semblance of reason or right. The United States could not maintain such a claim in their own favor, though neutral. When advanced in favor of an enemy, it would be the most preposterous and extravagant claim ever heard of. Every power, where not restrained by treaty, has a right to regulate its trade with other nations, in such manner as it finds most consistent with its interest: to admit, and on its own conditions, or to prohibit the importation of such articles as are necessary to supply the wants or encourage the industry of its people. In what light would Great Britain view an application from the United States, for the repeal, of right, of any act of her parliament, which prohibited the importation of any article from the United States, such as their fish or their oil? Or which claimed the diminution of the duty on any other, such as their tobacco, on which so great a revenue is raised? In what light would she view a similar application, made at the instance of France, for the importation into England of any article, the growth or manufacture of that power, which it was the policy of the British government to prohibit?

If delays have taken place in the restitution of American property, and in placing the American commerce, in the ports of France, on a fair and satisfactory basis, they involve questions, as has already been observed, in which the United States alone are interested. As they do not violate the revocation by France, of her edicts, they cannot impair the obligation of Great Britain to revoke hers, nor change the epoch at which the revocation ought to have taken place. Had that duly followed, it is more than probable that those circumstances, irrelative as they are, which have excited doubt in the British government of the practical revocation of the French decrees, might not have occurred.

Every view which can be taken of this subject, increases the painful surprise at the innovations on all the principles and usages heretofore observed, which are so unreservedly contended for in your letters of the 3d and 16th instant; and which, if persisted in by your government, present such an obstacle to the wishes of the United States for a removal of the difficulties which have been connected with the orders in council. It is the interest of the belligerents to mitigate the calamities of war; and neutral powers possess ample means to promote that object, provided they sustain with impartiality and firmness, the dignity of their station. If belligerents expect advantage from neutrals, they should leave them in the full enjoyment of their rights. The present war has been oppressive beyond example, by its duration, and by the desolation which it has spread throughout Europe. It is highly important that it should assume, at least, a milder character. By the revocation of the French edicts, so far as they respected the neutral commerce of the United States, some advance is made towards that most desirable and consoling result. Let Great Britain follow the example.....The ground thus gained, will soon be enlarged, by the concurring and pressing interests of all parties; and whatever is gained, will accrue to the advantage of afflicted humanity.

I proceed to notice another part of your letter of the 3d instant, which is viewed in a more favorable light. The President has received, with great satisfaction, the communication, that should the orders in council of 1807 be revoked, the blockade of May, of the preceding year, would cease with them, and that any blockade, which should be afterwards instituted, should be duly notified and maintained by an adequate force. This frank and explicit declaration, worthy of the prompt and amicable measure adopted by the prince regent, in coming into power, seems to remove a material obstacle to an accommodation of differences between our countries; and when followed by the revocation of the

orders in council, will, as I am authorised to inform you, produce an immediate termination of the non-importation law by an exercise of the power vested in the President for that purpose.

I conclude with remarking, that if I have confined this letter to the subjects brought into view by yours, it is not because the United States have lost sight, in any degree, of the other very serious causes of complaint, on which they have received no satisfaction, but because the conciliatory policy of this government, has thus far separated the case of the orders in council from others, and because with respect to these others, your communication has not afforded any reasonable prospect of resuming them, at this time, with success. It is presumed that the same liberal view of the true interests of Great Britain, and friendly disposition towards the United States, which induced the prince regent to remove so material a difficulty as had arisen in relation to a repeal of the orders in council, will lead to a more favorable, further consideration of the remaining difficulties on that subject, and that the advantages of an amicable adjustment of every question depending between the two countries, will be seen by your government in the same light as they are by that of the United States.

I have the honor to be, &c. &c.

(Signed)

JAS. MONROE.

Augustus J. Foster, Esq. &c. &c.

Mr. Foster to Mr. Monroe.

SIR, *Washington, July 24th, 1811.*

Having been unable to ascertain distinctly from your letter to me of yesterday's date, whether it was the determination of the President to rest satisfied with the partial repeal of the Berlin and Milan decrees which you believe has taken place, so as to see no reason in the conduct of France for altering the relations between this country and Great Britain by exercising his power of suspending the operation of the non-importation act, allow me to repeat my question to you on this point as contained in my letter of the 14th instant, before I proceed to make any comments on your answer.

I have the honor to be,

With distinguished consideration, Sir,

Your most obedient humble servant,

(Signed)

AUGS. J. FOSTER.

The Hon. James Monroe, Secretary of State.

C

Mr. Monroe to Mr. Foster.

SIR, *Department of State, 26th July, 1811.*

I had the honor to receive your letter of yesterday's date, in time to submit it to the view of the President before he left town.

It was my object to state to you in my letter of the 23d instant, that, under existing circumstances, it was impossible for the President to terminate the operation of the non-importation law of the 2d March last; that France having accepted the proposition made by a previous law, equally to Great Britain and to France, and having revoked her decrees, violating our neutral rights, and Great Britain having declined to revoke hers, it became the duty of this government to fulfil its engagement, and to declare the non-importation law in force against Great Britain.

This state of affairs has not been sought by the United States. When the proposition contained in the law of May 1st, 1810, was offered equally to both powers, there was cause to presume that Great Britain would have accepted it, in which event the non-importation law would not have operated against her.

It is in the power of the British government, at this time to enable the President to set the non-importation law aside, by rendering to the United States an act of justice. If Great Britain will cease to violate their neutral rights by revoking her orders in council, in which event alone the President has the power, I am instructed to inform you that he will, without delay, exercise it by terminating the operation of ~~this law~~.

It is presumed that the communications which I have had the honour to make to you of the revocation by France of her decrees, so far as they violated the neutral rights of the United States, and of her conduct since the revocation, will present to your government a different view of the subject from that which it had before taken, and produce in its councils a corresponding effect.

I have the honor to be, &c.

(Signed)

JAS. MONROE.

Mr. Foster to Mr. Monroe.

SIR, *Washington, July 26, 1811.*

I have had the honour to receive your letter of July 23, in answer to mine of the 3d and 14th instant, which, give me leave to say, were not merely relative to his majesty's orders in council and the blockade of May, 1806, but also to the President's proclamation of last November, and to the subse-

quent act of Congress of March 2d, as well as to the just complaints which his royal highness, the prince regent, had commanded me to make to your government, with respect to the proclamation, and to that act.

If the United States' government had expected that I should have made communications which would have enabled them to come to an accommodation with Great Britain on the ground on which alone you say it was possible to meet us, and that you mean by that expression a departure from our system of defence against the new kind of warfare still practised by France, I am at a loss to discover from what source they could have derived those expectations: certainly not from the correspondence between the marquis Wellesley and Mr. Pinkney.

Before I proceed to reply to the arguments that are bro't forward by you, to show that the decrees of Berlin and Milan are repealed, I must first enter into an explanation upon some points on which you have evidently misapprehended, for I will not suppose you could have wished to misinterpret my meaning.

And, first, in regard to the blockade of May, 1806, I must aver, that I am wholly at a loss to find out from what part of my letter it is that the President has drawn the *unqualified* inference, that should the orders in council of 1807 be revoked, the blockade of May, 1806, would cease with them. It is most material, that on this point, no mistake should exist between us. From your letter it would appear, as if on the question of blockade, which America had so unexpectedly connected with her demand for a repeal of our orders in council, Great Britain had made the concession required of her; as if, after all that has passed on the subject, after the astonishment and regret of his majesty's government at the United States having taken up the view which the French government presented of our just and legitimate principles of blockade, which are exemplified in the blockade of May, 1806, the whole ground taken by his majesty's government was at once abandoned. When I had the honour to exhibit to you my instructions, and to draw up, as I conceived, according to your wishes and those of the President, a statement of the mode in which that blockade would probably disappear, I never meant to authorise such a conclusion; and I now beg most unequivocally to disclaim it. The blockade of May, 1806, will not continue after the repeal of the orders in council, unless his majesty's government shall think fit to sustain it by the special application of a sufficient naval force: and the fact of its being so continued or not will be notified at the time. If in this view of the matter, which is certainly pre-

sented in a conciliatory spirit, one of the obstacles to a complete understanding between our countries can be removed by the United States' government waving all further reference to that blockade when they can be justified in asking a repeal of the orders, and I may communicate this to my government, it will undoubtedly be very satisfactory; but I beg distinctly to disavow having made any acknowledgement that the blockade would cease merely in consequence of a revocation of the orders in council; whenever it does cease, it will cease because there will be no adequate force applied to maintain it.

On another very material point, sir, you appear to have misconstrued my words; for in no one passage of my letter can I discover any mention of innovations on the part of Great Britain, such, as you say, excited a painful surprise in your government. There is no new pretension set up by his majesty's government. In answer to questions of yours, as to what were the decrees or regulations of France which Great Britain complained of, and against which she directs her retaliatory measures, I brought distinctly into your view the Berlin and Milan decrees, and you have not denied, because, indeed, you could not, that the provisions of those decrees were new measures of war on the part of France, acknowledged as such by her ruler, and contrary to the principles and usages of civilized nations. That the present war has been oppressive beyond example, by its duration, and the desolation it spreads through Europe, I willingly agree with you, but the United States cannot surely mean to attribute the cause to Great Britain. The question between Great Britain and France is that of an honourable struggle against the lawless efforts of an ambitious tyrant, and America can but have the wish of every independent nation as to its result.

On a third point, sir, I have also to regret, that my meaning should have been mistaken. Great Britain never contended, that British merchant vessels should be allowed to trade with her enemies, or that British property should be allowed entry into their ports, as you would infer; such a pretension would, indeed, be preposterous; but Great Britain does contend against the system of terror put in practice by France, by which, usurping authority wherever her arms or the timidity of nations will enable her to extend her influence, she makes it a crime to neutral countries, as well as to individuals, that they should possess articles, however acquired, which may have been once the produce of English industry, or of the British soil. Against such an abominable and extravagant pretension, every feeling must revolt, and the honor, no less than the interest, of Great Britain, engages her to oppose it.

Turning to the course of argument, contained in your letter, allow me to express my surprise at the conclusion you draw in considering the question of priority relative to the French decrees or British orders in council. It was clearly proved, that the blockade of May, 1806, was maintained by an adequate naval force, and therefore was a blockade founded on just and legitimate principles, and I have not heard that it was considered in a contrary light when notified as such to you by Mr. Secretary Fox, nor until it suited the views of France to endeavour to have it considered otherwise. Why America took up the view the French government chose to give of it, and could see in it grounds for the French decrees, was always matter of astonishment in England.

Your remarks on the modifications, at various times, of our system of retaliation, will require the less reply from the circumstance of the order in council of April 1809, having superseded them all. They were calculated for the avowed purpose of softening the effect of the original orders on neutral commerce, the incidental effect of those orders on neutrals having been always sincerely regretted by his majesty's government; but when it was found that neutrals objected to them, they were removed.

As to the principle of retaliation, it is founded on the just and natural right of self-defence against our enemy; if France is unable to enforce her decrees on the ocean, it is not from the want of will, for she enforces them wherever she can do it; her threats are only empty where her power is of no avail.

In the view you have taken of the conduct of America in her relations with the two belligerents, and in the conclusion you draw with respect to the impartiality of your country, as exemplified in the non-importation law, I lament to say, I cannot agree with you. That act is a direct measure against the British trade, enacted at a time when all the legal authorities in the United States appeared ready to contest the statement of a repeal of the French decrees, on which was founded the President's proclamation of November 2d, and consequently to dispute the justice of the proclamation itself.

You urge, sir, that the British government promised to proceed *pari passu* with France in the repeal of her edicts. It is to be wished you could point out to us any step France has taken in the repeal of hers. Great Britain has repeatedly declared, that she would repeal when the French did so, and she means to keep to that declaration.

I have stated to you, that we could not consider the letter of August 5, declaring the repeal of the French edicts, provided we revoked our orders in council, or America resented

our not doing so, as a step of that nature; and the French government knew that we could not; their object was evidently, while their system was adhered to in all its rigour, to endeavour to persuade the American government that they had relaxed from it, and to induce her to proceed in enforcing the submission of Great Britain to the inordinate demands of France. It is to be lamented, that they have but too well succeeded; for the United States' government appear to have considered the French declaration in the sense in which France wished it to be taken, as an absolute repeal of her decrees, without adverting to the conditional terms which accompanied it.

But you assert, that no violations of your neutral rights by France occur on the high seas, and that these were all the violations alluded to in the act of Congress of May, 1810. I readily believe, indeed, that such cases are rare, but it is owing to the preponderance of the British navy that they are so. When scarce a ship under the French flag can venture to sea without being taken, it is not extraordinary that they make no captures. If such violations alone were within the purview of your law, there would seem to have been no necessity for its enactment. The British navy might have been safely trusted for the prevention of their occurrence. But I have always believed, and my government has believed, that the American legislators had in view, in the provisions of their law as it respects France, not only her deeds of violence on the seas, but all the novel and extraordinary pretensions and practices of her government, which infringed their neutral rights.

We have had no evidence as yet of any of those pretensions being abandoned. To the ambiguous declaration in Mr. Champagny's note, is opposed the unambiguous and personal declaration of Bonaparte himself. You urge that there is nothing incompatible with the revocation of the decrees, in respect to the United States, in his expressions to the deputies from the free cities of Hamburg, Bremen and Lubeck, that it is distinctly stated in that speech, *that the blockade of the British islands shall cease when the British blockades cease*, and that the French blockade shall cease in favor of those nations in whose favor Great Britain revokes hers, or who support their rights against her pretension.

It is to be inferred from this and the corresponding parts of the declaration alluded to, that unless Great Britain sacrifices her principles of blockade, which are those authorised by the established law of nations, France will still maintain her decrees of Berlin and Milan, which, indeed, the speech in ques-

tion declares to be the fundamental laws of the French empire.

I do not, I confess, conceive how these avowals of the ruler of France can be said to be compatible with the repeal of his decrees in respect to the United States. If the United States are prepared to insist on the sacrifice by Great Britain of the ancient and established rules of maritime war practised by her, then indeed they may avoid the operation of the French decrees, but otherwise according to this document it is very clear that they are still subjected to them.

The decree of Fontainebleau is confessedly founded on the decrees of Berlin and Milan, dated the 19th October, 1810, and proves their continued existence. The report of the French minister of December 8, announcing the perseverance of France in her decrees, is still further in confirmation of them, and a re-perusal of the letter of the minister of justice of the 25th last December, confirms me in the inference I drew from it, for otherwise why should that minister make the prospective restoration of American vessels taken after the 1st November, to be a consequence of the non-importation and not of the French revocation. If the French government had been sincere they would have ceased infringing on the neutral rights of America after the 1st November: that they violated them however, after that period, is notorious.

Your government seem to let it be understood that an ambiguous declaration from Great Britain, similar to that of the French minister, would have been acceptable to them. But, sir, is it consistent with the dignity of a nation that respects itself to speak in ambiguous language? The subjects and citizens of either country would in the end be the victims, as many are already in all probability who from a misconstruction of the meaning of the French government have been led into the most imprudent speculations. Such conduct would not be to proceed *pari passu* with France in revoking our edicts, but to descend to the use of the perfidious and juggling contrivances of her cabinet, by which she fills her coffers at the expense of independent nations. A similar construction of proceeding *pari passu* might lead to such decrees as those of Rambouillet or of Bayonne, to the system of exclusion or of licenses, all measures of France against the American commerce, in nothing short of absolute hostility.

It is urged that no vessel has been condemned by the tribunals of France on the principles of her decrees since the 1st November. You allow, however, that there have been some detained since that period, and that such part of the cargoes as consisted of goods not the produce of America were seized, and the other part together with the vessel itself only releas-

ed after the President's proclamation became known in France: these circumstances surely only prove the difficulty that France is under in reconciling her anti-commercial and anti-neutral system, with her desire to express her satisfaction at the measures taken in America against the commerce of Great Britain. She seizes in virtue of the Berlin and Milan decrees, but she makes a partial restoration for the purpose of deceiving America.

I have now followed you, I believe sir, through the whole range of your argument, and on reviewing the course of it I think I may securely say that no satisfactory proof has as yet been brought forward of the repeal of the obnoxious decrees of France, but on the contrary that it appears they continue in full force, consequently that no grounds exist on which you can with justice demand of Great Britain a revocation of her orders in council. That we have a right to complain of the conduct of the American government in enforcing the provisions of the act of May, 1810, to the exclusion of the British trade, and afterwards in obtaining a special law for the same purpose though it was notorious at the time that France still continued her aggressions upon American commerce, and had recently promulgated anew her decrees, suffering no trade from this country, but through licenses publicly sold by her agents, and that all the suppositions you have formed of innovations on the part of Great Britain or of her pretensions to trade with her enemies are wholly groundless. I have also stated to you the view his majesty's government has taken of the question of the blockade of May, 1806, and it now only remains that I urge afresh the injustice of the United States' government persevering in their union with the French system for the purpose of crushing the commerce of Great Britain.

From every consideration which equity, good policy or interest can suggest, there appears to be such a call upon America to give up this system which favors France to the injury of Great Britain, that I cannot, however little satisfactory your communications, as yet abandon all hopes that even before the Congress meet, a new view may be taken of the subject by the President which will lead to a more happy result.

I have the honor to be, &c. &c.

(Signed)

AUG. J. FOSTER.

The Hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Foster.

SIR,

Department of State, Oct. 1st, 1811.

I have had the honor to receive your letter of the 26th of July, and to submit it to the view of the President.

In answering that letter, it is proper that I should notice a

complaint that I had omitted to reply in mine of the 23d of July, to your remonstrance against the proclamation of the President of November last, and to the demand which you had made, by the order of your government, of the repeal of the non-importation act of March 2d of the present year.

My letter has certainly not merited this imputation.

Having shewn the injustice of the British government, in issuing the orders in council, on the pretext assigned, and its still greater injustice in adhering to them after that pretext had failed, a respect for Great Britain, as well as for the United States, prevented my placing, in the strong light in which the subject naturally presented itself, the remonstrance alluded to, and the extraordinary demand founded on it, that while your government accommodated in nothing, the United States should relinquish the ground, which by a just regard to the public rights and honor, they had been compelled to take. Propositions tending to degrade a nation, can never be brought into discussion, by a government not prepared to submit to the degradation. It was for this reason that I confined my reply to those passages in your letter which involved the claim of the United States, on the principles of justice, to the revocation of the orders in council. Your demand however, was neither unnoticed nor unanswered. In laying before you the complete, and as was believed, irresistible proof on which the United States expected and called for the revocation of the orders in council, a very explicit answer was supposed to be given to that demand.

Equally unfounded is your complaint, that I misunderstood that passage which claimed, as a condition of the revocation of the orders in council, that the trade of Great Britain with the continent, should be restored to the state in which it was before the Berlin and Milan decrees were issued. As this pretension was novel and extraordinary, it was necessary that a distinct idea should be formed of it, and with that view, I asked such an explanation as would enable me to form one.

In the explanation given, you do not insist on the right to trade in British property, with British vessels, directly with your enemies. Such a claim you admit would be preposterous. But you do insist by necessary implication, that France has no right to inhibit the importation into her ports, of British manufactures, or the produce of the British soil, when the property of neutrals; and that until France removes that inhibition, the United States are to be cut off by Great Britain, from all trade whatever with her enemies.

On such a pretension it is almost impossible to reason. There is, I believe, no example of it in the history of past

wars. Great Britain, the enemy of France, undertakes to regulate the trade of France: nor is that all; she tells her that she must trade in British goods. If France and Great Britain were at peace, this pretension would not be set up, nor even thought of. Has Great Britain then acquired, in this respect, by war rights which she has not in peace? And does she announce to neutral nations, that unless they consent to become the instruments of this policy, their commerce shall be annihilated, their vessels shall be shut up in their own ports?

I might ask whether French goods are admitted into Great Britain, even in peace; and if they are, whether it be of right, or by the consent and policy of the British Government?

That the property would be neutralized does not affect the question. If the United States have no right to carry their own productions into France without the consent of the French government, how can they undertake to carry there, those of Great Britain? In all cases it must depend on the interest and the will of the party.

Nor is it material to what extent, or by what powers the trade to the continent is prohibited. If the powers who prohibit it, are at war with Great Britain, the prohibition is a necessary consequence of that state. If at peace, it is their own act, and whether it be voluntary or compulsive, they alone are answerable for it. If the act be taken at the instigation and under the influence of France, the most that can be said, is, that it justifies reprisal against them by a similar measure. On no principle whatever can it be said to give any sanction to the conduct of Great Britain towards neutral nations.

The United States can have no objection to the employment of their commercial capital in the supply of France and of the continent generally with manufactures, and to comprise in the supply those of Great Britain, provided those powers will consent to it. But they cannot undertake to force such supplies on France or on any other power, in compliance with the claim of the British government, on principles incompatible with the rights of every independent nation; and they will not demand in favor of another power what they cannot claim for themselves.

All that Great Britain could with reason complain of, was the inhibition by the French decrees, of the lawful trade of neutrals with the British dominions. As soon as that inhibition ceased, her inhibition of our trade with France, ought in like manner to have ceased. Having pledged herself to proceed *pari passu* with France, in the revocation of their respec-

tive acts, violating neutral rights, it has afforded just cause of complaint, and even of astonishment to the United States, that the British government should have sanctioned the seizure and condemnation of American vessels under the orders in council, after the revocation of the French decrees was announced, and even in the very moment when your mission, avowed to be conciliatory, was to have its effect. I will only add, that had it appeared finally, that France had failed to perform her engagement, it might at least have been expected, that Great Britain would not have molested such of the vessels of the United States as might be entering the ports of France on the faith of both governments, till that failure was clearly proved.

To many insinuations in your letter, I make no reply, because they sufficiently suggest the only one that would be proper.

If it were necessary to dwell on the impartiality which has been observed by the United States towards the two belligerents, I might ask, whether, if Great Britain had accepted the condition which was offered equally to her and France, by the act of May 1st, 1810, and France had rejected it, there is cause to doubt that the non-importation act would have been carried into effect against France? No such doubt can possibly exist because in a former instance, when the government trusting to a fulfilment by yours, of an arrangement which put an end to a non-intercourse with Great Britain, the non-intercourse was continued against France, who had not then repealed her decrees, as it was not doubted that England had done. Has it not been repeatedly declared to your government, that if Great Britain would revoke her orders in council, the President would immediately cause the non-importation to cease? You well know, that the same declaration has been often made to yourself, and that nothing is wanting to the removal of the existing obstructions to the commerce between the two countries, than a satisfactory assurance, which will be received with pleasure from yourself, that the orders in council are at an end.

By the remark in your letter of the 3d of July, that the Blockade of May 1806, had been included in the more comprehensive system of the orders in council of the following year and that, if that blockade should be continued in force, after the repeal of the orders in council, it would be in consequence of the special application of a sufficient naval force, I could not but infer your idea to be, that the repeal of the orders in council would necessarily involve the repeal of the blockade of May. I was the more readily induced to make this inference, from the consideration, that if the blockade

was not revoked by the repeal of the orders in council, there would be no necessity for giving notice that it would be continued, as by the further consideration, that according to the decision of your court of admiralty, a blockade instituted by proclamation, does not cease by the removal of the force applied to it, nor without a formal notice by the government to that effect.

It is not however wished to discuss any question relative to the mode by which that blockade may be terminated. Its actual termination is the material object for consideration.

It is easy to shew, and it has already been abundantly shewn, that the blockade of May, 1806, is inconsistent, in any view that may be taken of it, with the law of nations. It is also easy to shew that, as now expounded, it is equally inconsistent with the sense of your government when the order was issued, and this change is a sufficient reply to the remarks which you have applied to me personally.

If you will examine the order, you will find that it is strictly little more, than a blockade of the coast from the Seine to Ostend. There is an express reservation in it in favor of neutrals to any part of the coast between Brest and the Seine, and between Ostend and the Elbe. Neutral powers are permitted by it, to take from their own ports every kind of produce without distinction, as to its origin, and to carry it to the continent under that limitation, and with the exception only of contraband of war and enemies' property, and to bring thence to their own ports in return, whatever articles they think fit. Why were contraband of war and enemies' property excepted, if a commerce even in those articles would not otherwise have been permitted under the reservation? No order was necessary to subject them to seizure; they were liable to it by the law of nations, as asserted by Great Britain.

Why then did the British government institute a blockade, which with respect to neutrals, was not rigorous, as to the greater part of the coast comprised in it? If you will look to the state of things which then existed between the United States and Great Britain, you will find the answer. A controversy had taken place between our governments on a different topic, which was still depending. The British government had interfered with the trade between France and her allies, in the produce of their colonies. The just claim of the United States was then a subject of negotiation, and your government professing its willingness to make a satisfactory arrangement of it, issued the order which allowed the trade, without making any concession as to the principle, reserving that for adjustment by treaty. It was in this light that I

viewed, and in this sense, that I represented, that order to my government, and in no other did I make any comment on it.

When you reflect that this order, by allowing the trade of neutrals, in colonial productions, to all that portion of the coast which was not rigorously blockaded, afforded to the United States, and an accommodation in a principal point then at issue between our governments, and of which their citizens extensively availed themselves; that that trade and the question of blockade, and every other question in which the United States and Great Britain were interested, were then in a train of amicable negotiation, you will, I think see the cause, why the minister, who then represented the United States with the British government, did not make a formal complaint against it. You have appealed to me who happened to be that minister, and urged my silence, as an evidence of my approbation of, or at least acquiescence in, the blockade. An explanation of the cause of that supposed silence, is not less due to myself than to the true character of the transaction. With the minister with whom I had the honor to treat, I may add, that an official formal complaint was not likely to be resorted to, because friendly communications were invited and preferred. The want of such a document, is no proof that the measure was approved by me, or that no complaint was made. In recalling to my mind, as this incident naturally does, the manly character of that distinguished and illustrious statesman, and the confidence with which he inspired all those with whom he had to treat, I shall be permitted to express, as a slight tribute of respect to his memory, the very high consideration in which I have always held his great talents and virtues.

The United States have not, nor can they approve the blockade of an extensive coast. Nothing certainly can be inferred from any thing that has passed relative to the blockade of May, 1806, to countenance such an inference.

It is seen with satisfaction that you still admit that the application of an adequate force is necessary to give a blockade a legal character, and that it will lose that character whenever that adequate force ceases to be applied. As it cannot be alledged that the application of any such adequate force has been continued and actually exists, in the case of the blockade of May, 1806, it would seem to be a fair inference, that the repeal of the orders in council will leave no insuperable difficulty with respect to it. To suppose the contrary would be to suppose that the orders in council, said to include that blockade, resting themselves on a principle of retaliation only, and not sustained by the application of an

adequate force, would have the effect of sustaining a blockade admitted to require the application of an adequate force, until such adequate force should actually take the place of the orders in council. Whenever any blockade is instituted, it will be a subject for consideration; and if the blockade be in conformity to the law of nations, there will be no disposition in this government to contest it.

I have the honor to be, &c.

(Signed)

JAS. MONROE.

Augustus J. Foster, Esq. &c. &c.

Mr. Monroe to Mr. Foster.

SIR,

Department of State, Oct. 17th, 1811.

I have the honor to communicate to you a copy of two letters from the charge des affaires of the United States at Paris, to their charge des affaires at London, and a copy of a correspondence of the latter with the marquis of Wellesley on the subject. By this it will be seen, that Mr. Smith was informed by the marquis of Wellesley that he should transmit to you a copy of the communication from Paris that it might have full consideration in the discussions depending here.

Although an immediate repeal was to have been expected from your government, on the receipt of this communication, if the new proof which it affords of the French repeal was satisfactory; yet it will be very agreeable to learn, that you are now authorised to concur in an arrangement that will terminate both the orders in council and the non-importation act.

I have the honor to be, &c. &c.

(Signed)

JAS. MONROE.

Augustus J. Foster, Esq. &c. &c.

P. S. Hearing that you will not be in town for several days, this letter and one bearing date on the 1st of this month, which I had prepared and intended to deliver to you on my return here, are forwarded by a special messenger.

Mr. Russell to Mr. J. S. Smith.

SIR,

Paris, 5th July, 1811.

I observe by your letter of the 7th ult. your solicitude to obtain evidence of the revocation of the Berlin and Milan decrees.

On the 5th of August last, the duke of Cadore announced to General Armstrong that these decrees were revoked, and that they would cease to operate on the 1st of November. Since the first of November, these decrees have not, to my knowledge, in any instance, been executed to the prejudice

of American property arriving since that time. On the contrary, the *Grace Ann Green*, coming clearly within the penal terms of those decrees, had they continued in force, was liberated in December last, and her cargo admitted in April. This vessel had indeed been taken by the English, and retaken from them; but as this circumstance is not assigned here as the cause of the liberation of this property, it ought not to be presumed to have operated alone as such.

Whatever special reasons may be supposed for the release of the *Grace Ann Green*, that of the *New Orleans Packet* must have resulted from the revocation of the French edicts.

The *New Orleans Packet* had been boarded by two English vessels of war, and had been some time at an English port, and thus doubly transgressed against the decree of Milan. On arriving at Bordeaux, she was in fact seized by the director of the customs, and these very transgressions expressly assigned as the cause of seizure. When I was informed of this precipitate act of the officer at Bordeaux, I remonstrated against it, on the sole ground that the decrees under which it was made had been revoked. This remonstrance was heard. All further proceedings against the *New Orleans Packet* were arrested; and on the 9th of January, both the vessel and cargo were ordered to be placed at the disposition of the owners, on giving bond. This bond has since been cancelled by an order of the government, and thus the liberation of the property perfected. The *New Orleans Packet* has been sometime waiting in the Garonne, with her return cargo on board, for an opportunity only of escaping the English orders in council.

I know of no other American vessel, arrived voluntarily in the empire of France or the kingdom of Italy since the first of November, to which the decrees of Berlin and Milan could be applied.

I am, Sir, very respectfully,

Your very obed't serv't,

JONA. RUSSELL.

John S. Smith, Esquire,

Charge d'affaires of the United States, London.

Mr. Russell to Mr. J. S. Smith.

SIR,

Paris, 14th July, 1811.

I had the honor to address to you, on the 5th instant, a brief account of the *Grace Ann Green*, and of the *New Orleans Packet*. The proof which these cases furnish, especially the latter, ought, when unopposed as it is by any conflicting circumstance, to be considered as conclusive of the revocation of the French edicts, to which, if continued in force,

these cases would have been liable. In addition, however, to this evidence, I have now the satisfaction to communicate to you the liberation of the Two Brothers, the Good Intent and the Star, three American vessels captured since the first of November and brought into this empire, or into ports under its control. I should no doubt have been able to have announced the release, by one general decision, of every American vessel captured since that period, if the only inquiry were, whether or not they had violated the Berlin and Milan decrees. Unfortunately, however, the practices of late years, renders the question of property extremely difficult to be satisfactorily decided. Amidst false papers and false oaths, after the most minute and tedious investigation, it often remains doubtful whether this property belongs to a neutral or an enemy. The time employed in this investigation has surely no connection with the Berlin and Milan decrees, and cannot be considered as evidence of their continuance.

It is possible that those decrees may be kept in force in their municipal character, and be applied for the confiscation of English merchandise on the continent. And to prevent their performing this function does not appear to be a concern of the United States, nor can the measure adopted in retaliation of it on the part of England, be justly extended beyond its limits, and made to reach an unoffending neutral power which the act of her enemy does not affect. It is sufficient for us that the Berlin and Milan decrees have ceased to be executed on the high seas, and if the orders in council still continue to operate there, they surely are not supported by any principle of the law of retaliation, but must be considered as a simple and unqualified violation of our neutral and national rights.

The proof now before you, of the revocation of the Berlin and Milan decrees, consists in the precise and formal declarations of this government, in its discontinuance to execute them to our prejudice in a single instance; in its having exempted from this operation, every vessel arriving spontaneously since the 1st of November, to which they could be applied, and every vessel forcibly brought in since that time on which there has been a decision. After such evidence, to pretend to doubt of their revocation with regard to us, would seem to be the result of something more than mere incredulity.

With much respect, I am, &c.

JONA. RUSSELL.

John Spear Smith, Esquire,

Charge d'affaires of the United States, London,

Mr. J. S. Smith to the Marquis Wellesley.

MY LORD,

Bentick Street, 23d July, 1811.

The letter which I have the honor to present to your lordship, has been just received by me from Mr. Russell. So full and complete is this document, that I conceive it quite unnecessary to add any comment or remarks of my own. I shall however have much pleasure in furnishing any other explanations in my power, either verbal or written, that your lordship may desire.

Any doubts that may have existed here of the effectual repeal of the decrees of Berlin and Milan will now, I feel assured, be completely removed; and I feel equally confident that this revocation of the French edicts will be immediately followed by that of the orders in council which affect the neutral commerce of the United States. I need not assure your lordship of the great satisfaction I shall have in communicating this event to my government.

As the "orders in council" have been ever declared by his majesty's government to be only of a retaliating character, and that they would cease to have any effect when the causes upon which they were founded had ceased to exist, I trust that no argument is necessary to shew (if your lordship shall feel the force with which the accompanying document unequivocally demonstrates the abandonment on the part of France of her decrees) that the "orders in council" should be so revoked as to embrace the American vessels that have been captured by British cruisers since the first of November, the period at which the French edicts were revoked.

I have the honor to subjoin to this, the circumstances of the two vessels to which Mr. Russell alludes in his letter.

The *Grace Ann Green* had been captured by an English cruiser, was retaken by her own crew, and arrived at Marseilles, where vessel and cargo were notwithstanding admitted.

The *New-Orleans Packet* had been boarded by two English cruisers, and had been also at an English port, thus doubly transgressing against the French edicts. She arrived at Bordeaux, was seized by the director of the customs for these very transgressions, but on the remonstrance of Mr. Russell was immediately released, and has been admitted vessel and cargo. I have the honor, &c. &c.

(Signed)

J. S. SMITH.

The most noble the Marquis Wellesley, &c. &c.

Lord Wellesley to Mr. J. S. Smith.

SIR,

Foreign Office, 8th August, 1811.

Your letter of 23d ultimo has been under the consideration

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of his royal highness the prince regent, and has received all the attention to which it is entitled.

I am commanded by his royal highness, to acquaint you that he has thought fit to postpone the answer to your letter until advices, which are hourly expected from Mr. Foster, shall have been received.

I have the honour to be,

With great respect and consideration,

Sir, your most ob't and humble serv't.

(Signed)

WELLESLEY.

John S. Smith, Esquire, &c. &c.

Lord Wellesley to Mr. J. S. Smith.

SIR,

Foreign Office, August 14th, 1811.

Since the date of my last letter, I have the honor to inform you that I have received a letter from Mr. Foster, his majesty's minister in America, by which it appears that he had actually commenced a negotiation with the government of the United States respecting the British orders in council. His despatches, containing the particulars of the negotiation, have not yet reached me. Under these circumstances, I have transmitted a copy of your letter, together with its inclosure, to Mr. Foster, in order that those documents may receive full consideration in the progress of the discussions now depending in America.

I have the honor to be, &c. &c.

(Signed)

WELLESLEY.

John S. Smith, Esquire, &c. &c.

Mr. Foster to Mr. Monroe.

SIR,

Washington, October 22d, 1811.

I had the honour to receive your letter of the 17th instant, together with its three inclosures, on the road between Baltimore and this city; I had that of receiving at the same time your letter dated October 1st, in answer to mine of the 26th of last July.

Not having had any despatches from his majesty's government lately, I have not, as yet, received the copy of the recent communication from Paris, in regard to the supposed repeal of the French decrees, which the charge d'affaires of the United States at London has intimated to you that he understood the marquis Wellesley intended to transmit to me, and which I conclude is the same as that contained in the letter of Mr. Russell, the American charge d'affaires in France. I am, however, in daily expectation of the arrival of his majesty's packet boat, when it will in all probability reach me, and when, if I should receive any fresh instructions in conse-

quence, I will not fail immediately to acquaint you. In the mean while, however, I beg you will permit me to make some remarks in reply to your letter of October 1st, being extremely anxious to do away the impression which you seem to have received relative to the demand I had made for the repeal of the non-importation act of the present year.

It is, I assure you, sir, with very great regret that I find you consider that demand as involving in any degree propositions tending to degrade your nation. Such an idea certainly never existed with his majesty's government, nor would it be compatible with the friendly sentiments entertained by them for the United States, neither could I have suffered myself to be the channel of conveying a demand which I thought had such a tendency; however you may view the demand made on the part of Great Britain, I can safely say that it was made in consequence of its appearing to his majesty's government on strong evidence, that the chief of the French nation had really deceived America as to the repeal of his decrees, and in the hopes that the United States' government would therefore see the justice of replacing this country on its former footing of amicable relations with England, nothing appearing to be more natural than such an expectation, which seemed a necessary consequence of the disposition expressed by America to maintain her neutrality, and desirable in every other point of view. I cannot, indeed, bring myself to think, sir, that your candor would allow you, on a re-consideration, to put any other construction on the matter; and had my arguments had sufficient weight with you, in shewing that the French decrees were still in force, I cannot doubt but you would have agreed with me in the conclusion I drew; it would seem therefore only owing to your not viewing the deceitful conduct of the French government in the same light that it appears to his majesty's government, that a difference of opinion exists between us as to the proposal I made, which under the conviction entertained by them was surely a very just and natural one.

From the earnest desire of vindicating myself and my government from the charge of making any degrading or unjust demands on that of America, I have taken the liberty to trouble you so far; and I will now proceed to shew why I thought you had misunderstood the passage of my letter which related to the extent in which the repeal of the French decrees was required by Great Britain. In the explanation which you desired on this point, I gave you that which the marquis Wellesley gave to Mr. Pinkney in answer to his letter of August 25th, 1810, and I beg to refer you to the message of the President of the United States on the opening of Congress in De-

cember, 1810, for a proof that the demand of Great Britain, in the extent in which I have stated it, was known to your government several months ago: How was I therefore to suppose, in the term, innovations, as applied to the explanation given by me, that you could mean otherwise than some really new pretension on the part of Great Britain, such as that France should suffer British property to be carried into her ports for the purposes of trade. If the warmth I was betrayed into, in endeavoring to refute a supposed imputation of this sort, gave any offence, I sincerely regret it, and I will beg permission here to say, sir, that if unconsciously I have by any of my remarks led you to suppose they conveyed any improper insinuations, as one paragraph of your letter would appear to imply, I am most unfeignedly sorry for it, as I entertain the highest respect for you, personally, and for your government, and could only have meant what I wrote in the way of argument, or for the purpose of contrasting the proceedings of France in her conduct towards the United States with that of Great Britain.

In reverting to the extraordinary and unprecedented situation of things that has arisen out of the war in Europe, it would seem needless to repeat the evidence there is, that the lawless and unbounded ambition of the ruler of France has been the origin of it; and it cannot be a secret to the United States' government that his plan has been, and avowedly continues to be, not to scruple at the violation of any law provided he can thereby overthrow the maritime power of England. Is it not therefore reasonable in Great Britain, to distrust an ambiguous declaration of his having suddenly given up any part of a system which he thought calculated to produce such an effect? You say, however, that the decrees of Berlin and Milan are revoked. America, as not being at war, and therefore not seeing so nearly into the views of France, may be less scrupulous as to the evidence necessary to prove the fact; but, sir, it surely cannot be expected that Great Britain, who is contending for every thing that is dear to her, should not require more proof on a point so material to her. It is undoubtedly a very desirable thing for the United States to have a free and unrestricted trade with both belligerents, but the essential security and most important interests of America are not involved in the question as are those of Great Britain. France has levelled a blow which she hopes will prove deadly to the resources of Great Britain; and before the British government can with safety give up the measures of defence in consequence adopted by them, very strong proof must exist of the cessation by France of her novel and unprecedented measures.

I confess, sir, with the sincerest disposition to discover on the part of the ruler of France, a return to the long established practice of warfare as exercised in civilized Europe, I have been unable to succeed; and if the French government had really meant to withdraw their obnoxious decrees, it is inconceivable why, instead of allowing their intention to be guessed at or inferred, they should not openly, and in plain language, have declared so, the decrees themselves having been clearly enough announced on their enactment why should not their revocation be equally explicit?

While however, numerous declarations have been made on the part of France, of the continued existence of the decrees, and captures made under them of neutral ships have occurred, a few of the American vessels seized since November 1 have been restored, and the foregoing, a very small part of his plunder, is desired by Bonaparte to be considered as a proof of the sincerity of his revocation by America; but it must be recollected, that besides the object of ruining the British resources by his own unauthorised regulations, he has also that of endeavoring to obtain the aid of the United States for the same purpose; and herein you will, as I had the honor to remark in a former letter, be able to observe the cause of the apparently contradictory language held both by himself and his ministers.

I should be extremely happy to receive from you, sir, the information, that in a frank and unambiguous manner, the chief of the French government had revoked his decrees. Why he should not do so, is inexplicable, if he means to revert to the ordinary means of war; but while he exercises such despotic sway, wherever his influence extends, to ruin the resources of England, it cannot be expected that Great Britain shall not use the means she possesses for the purpose of making him feel the pressure of his own system. There is every reason to believe, that ere long, the effect on the enemies of Great Britain will be such as irresistibly to produce a change, which will place commerce on its former basis. In the mean time, sir, I hope you will not think it extraordinary, if I should contend that the seizure of American ships by France since November 1, and the positive and unqualified declarations of the French government, are stronger proofs of the continued existence of the French decrees and the bad faith of the ruler of France, than the restoration of five or six vessels, too palpably given up for fallacious purposes, or in testimony of his satisfaction at the attitude taken by America, is a proof of their revocation or of his return to the principles of justice.

I will only repeat, sir, in answer to your observations on

the late condemnation of the ships taken under his majesty's orders in council, what I have already had the honor to state to you, that the delay which took place in their condemnation was not a consequence of any doubt existing in his majesty's government as to whether the French decrees were revoked, as you seem to imagine, but in consequence of its being thought that the American government upon its appearing that they were deceived by France, would have ceased their injurious measures against the British commerce. A considerable time elapsed before the decision took place on those ships, and there is no doubt but that, had the United States' government not persisted their unfriendly attitude towards Great Britain on discovering the ill faith of France, a spirit of conciliation in his majesty's government would have caused their release.

In reply to your observations on the pretensions of Great Britain relative to the revocation of the French decrees, I beg to repeat, that the sum of the demands made by England is, that France should follow the established laws of warfare as practised in former wars in Europe. Her ruler, by his decrees of Berlin and Milan, declared himself no longer bound by them; he has openly renounced them in his violent efforts to ruin the resources of Great Britain, and has trampled on the rights of independent nations to effect his purpose. If the French government make use of unprecedented violence to prevent the intercourse of England with unoffending neutrals, can it be expected that England should tamely suffer the establishment of such a novel system of war, without retaliation, and endeavoring, in her turn, to prevent the French from enjoying the advantages of which she is unlawfully deprived.

Having explained already the situation in which the question of the blockade of May, 1806 rests, according to the views of his majesty's government, and the desire of Great Britain to conduct her system of blockade according to the laws of nations, I will only advert to it on this occasion for the purpose of taking the liberty of acknowledging to you the very great pleasure I received from the highly honorable mark of respect which you have taken the occasion to express for the illustrious statesman from whose counsels that measure emanated.

I need not repeat to you, sir, what sincere satisfaction it would give me, if, without the sacrifice of the essential rights and interests of Great Britain, all the points in discussion between our two countries could be finally adjusted.

I have the honor to be, &c. &c.

(Signed)

AUG. J. FOSTER.

The hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Foster.

SIR,

Department of State, Oct. 29, 1811.

I have had the honor to receive your letter of the 22d of this month, and to lay it before the President.

The assurance which you have given of your disposition to reciprocate, in our communications on the important subjects depending between our governments, the respectful attention which each has a right to claim, and that no departure from it was intended in your letter of the 26th July, has been received with the satisfaction due to the frank and conciliatory spirit in which it was made.

I learn however, with much regret, that you have received no instructions from your government, founded on the new proof of the revocation of the Berlin and Milan decrees, which was communicated to the marquis of Wellesley by the American charge d'affaires at London, in a document of which I had the honor to transmit to you a copy. It might fairly have been presumed, as I have before observed, that the evidence afforded by that document of the complete revocation of those decrees, so far as they interfered with the commerce of the United States with the British dominions, would have been followed by an immediate repeal of the orders in council. From the reply of the marquis of Wellesley it was at least to have been expected that no time had been lost in transmitting that document to you and that the instructions accompanying it would have manifested a change in the sentiments of your government on the subject. The regret therefore cannot but be increased in finding that the communication which I had the honor to make to you, has not even had the effect of suspending your efforts to vindicate the perseverance of your government in enforcing those orders.

I regret also to observe that the light in which you have viewed this document, and the remarks which you have made on the subject generally, seem to preclude any other view of the conditions on which those orders are to be revoked, than those that were furnished by your former communications. You still adhere to the pretension that the productions and manufactures of Great Britain, when neutralized must be admitted into the ports of your enemies. This pretension, however vague the language heretofore held by your government, particularly by the marquis of Wellesley in his communications with Mr. Pinkney on the subject, was never understood to have been embraced. Nothing indeed short of the specific declarations which you have made, would have induced a belief that such was the case.

I have the honor to be, &c.

(Signed)

JAS. MONROE.

Augustus J. Foster, Esq. &c. &c.

Mr. Foster to Mr. Monroe.

SIR,

Washington, October 31, 1811.

I did not reply at great length to the observations contained in your letter of the 1st instant, on the pretensions of Great Britain as relative to the French system, because you seemed to me to have argued as if but a part of the system continued, and even that part had ceased to be considered as a measure of war against Great Britain. For me to have allowed this, would have been at once to allow in the face of facts, that the decrees of France were repealed, and that her unprecedented measures, avowedly pursued in defiance of the laws of nations, were become mere ordinary regulations of trade. I therefore thought fit to confine my answer to your remarks, to a general statement of the sum of the demands of Great Britain, which was, that France should by effectually revoking her decrees revert to the usual method of carrying on war as practised in civilized Europe.

The pretension of France to prohibit all commerce in articles of British origin in every part of the continent, is one among the many violent innovations which are contained in the decrees, and which are preceded by the declaration of their being founded on a determination of the ruler of France, as he himself avowed, to revert to the principles which characterised the barbarism of the dark ages, and to forget all ideas of justice and even the common feelings of humanity in the new method of carrying on war adopted by him.

It is not, however, a question with Great Britain of mere commercial interest, as you seem to suppose, which is involved in the attempt by Bonaparte to blockade her both by sea and land, but one of feeling and of national honor, contending as we do against the principles which he professes in his new system of warfare. It is impossible for us to submit to the doctrine that he has a right to compel the whole continent to break off all intercourse with us, and to seize upon vessels belonging to neutral nations upon the sole plea of their having visited an English port, or of their being laden with articles of British or colonial produce in whatsoever manner acquired.

This pretension, however, is but a part of that system, the whole of which under our construction of the letter of M. Champagny of August 5, 1810, corroborated by many subsequent declarations of the French government and not invalidated by any unequivocal declaration of a contrary tenor, must be considered as still in full force.

In the communication which you lately transmitted to me, I am sorry to repeat that I was unable to discover any facts

which satisfactorily proved that the decrees had been actually repealed, and I have already repeatedly stated the reasons which too probably led to the restoration of a few of the American ships taken in pursuance of the Berlin and Milan decrees after November 1. Mr. Russel does not seem to deny that the decrees may still be kept in force, only he thinks they have assumed a municipal character; but in M. Champigny's declaration, ambiguous as it was, there is no such division of them into two different characters, for if the contingency required by the French minister took place, the Berlin and Milan decrees were to cease according to his expression, without any qualification. If therefore a part of them remain or be revived again, as seems to be allowed even here, why may not the whole be equally so? Where proof can be obtained of their existence we have it, namely, in the ports of France in which vessels have been avowedly seized under their operation since November 1. Of their maritime existence we cannot so easily obtain evidence because of the few French ships of war which venture to leave their harbors. Who can doubt however but that had the ruler of France a navy at his command equal to the enforcing of his violent decrees, he would soon show that part of them to be no dead letter. The principle is not the less obnoxious because it is from necessity almost dormant for the moment, nor ought it therefore to be less an object to be strenuously resisted.

Allow me, sir, here to express my sincere regret that I have not as yet been able to convince you by what I cannot but consider the strongest evidence, of the continued existence of the French decrees, and consequently of the unfriendly policy of your government in enforcing the non-importation against us and opening the trade with our enemies. His royal highness will, I am convinced, learn with unfeigned sorrow, that such continues to be still the determination of America, and whatever restrictions on the commerce enjoyed by America in his majesty's dominions may ensue on the part of Great Britain, as retaliatory on the refusal by your government to admit the productions of Great Britain, while they open their harbors to those of his majesty's enemies, they will, I am persuaded, be adopted with sincere pain, and with pleasure relinquished whenever this country shall resume her neutral position and impartial attitude between the two belligerents.

I have the honor to be, &c. &c.

(Signed)

AUGS. J. FOSTER.

The Hon. James Monroe, Secretary of State.

F

CORRESPONDENCE

Relative to the encounter between the United States' Frigate the President, and the British Sloop of War Little Belt.

Mr. Morier to Mr. Monroe.

SIR, *Baltimore, June 26th, 1811.*

I have the honor to enclose the copy of an official letter addressed to rear admiral Sawyer, by captain Bingham commanding his majesty's sloop the Little Belt, which contains an account of the late engagement between that ship and the American frigate the President.

In thus communicating to you, without orders from his majesty's government, this document, which in the most essential part differs so materially from that of commodore Rodgers, I trust that this government will receive it as a proof of the sincere desire which exists with me, to open the way to an amicable arrangement of the question which may arise out of this unfortunate affair, when it shall be known to his majesty's government.

I have the honor to be, &c. &c.

(Signed)

J. P. MORIER.

The Hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Morier.

SIR, *Department of State, June 28th, 1811.*

I had the honour to receive yesterday, your letter of the 26th instant, communicating a statement from captain Bingham to admiral Sawyer of the circumstances attending the late unfortunate encounter between the United States' frigate the President, and his Britannic majesty sloop the little Belt.

It is to be regretted that the statement made by captain Bingham should have varied in any circumstance from that made by the commander of the American frigate. I flatter myself, with the disposition of the President, which I am authorised to express, to make it the subject of mutual and friendly explanations, that its disagreeable tendency will be obviated. I am induced to express this expectation with the more confidence, from the conciliatory manner in which you have made this communication.

I have the honor to be, &c. &c.

(Signed)

JAS. MONROE.

Mr. Morier, charge d'affaires of his Britannic majesty.

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 3d, 1811.

The assurances which you did me the honor to give me yesterday verbally, that no instructions whatever had been given to commodore Rodgers, which could, under any construction, be meant to authorise his attempting to recover by force any person claimed as an impressed American citizen, from on board any of his majesty's ships of war, were amply sufficient to convey to my mind every satisfaction upon that subject. The reports, however, current in the United States and connected with commodore Rodgers' conduct and proceedings, as well as the inferences which will be drawn from the expressions which he used to the captain of his majesty's sloop *Little Belt*, being of a tendency to create doubts in Great Britain as to the nature of the authority under which he acted, I willingly accept your offer of making me the same statement in a more formal manner, in order that I may transmit it to my government, to prevent all possible mistake on so important a point.

The question arising out of the encounter between the United States' frigate *President* and his majesty's sloop *Little Belt*, will then remain limited to the act itself. You are already, sir, in possession of the British commander's statement of the circumstances which attended it. His account and that of the American commodore, differ very materially with respect to some of the most important features of the transaction; but in this they agree, that the chase which brought on the action, commenced on the part of commodore Rodgers; for it cannot be maintained, that the advance made by captain Blisham for the purpose of ascertaining if the sail described by him was his majesty's ship *Guerrier*, which it appears he had orders to join, was for the purpose of chasing, even if that could be urged as a plea by the American commander. As soon as he found his signals unanswered, he bore away, until, to his infinite surprise, he found himself the object of the strange vessel's eager pursuit and hostile attitudes. What could be commodore Rodgers' intention is not apparent. That he could not discover, at the distance of 70 or 100 yards, that the ship before him was a flush deck sloop, though it was but a little after 8 o'clock on the 16th of May; that he could not make out her colors at half past 6 o'clock; that his guns were double shotted; and that with the security he possessed, from the great force and superior sailing of the ship under his command and the circumstance of belonging to a neutral nation, he did not rather hold off during the night, if he wished to speak the sloop, than by running under her stern

in a menacing attitude, incur the risk of provoking a misunderstanding, must appear unaccountable to the comprehension of every unprejudiced person, and will, I am sure sir, seem to you a sufficient reason, if there were no other, to warrant my demanding that an examination be instituted into his conduct, with a view to suitable satisfaction being afforded to his majesty for the loss of so many of his subjects so wantonly slaughtered, and for the insult offered to his flag. But should captain Bingham's charges be brought home to commodore Rodgers, of his having refused to state the name of the nation he belonged to, though asked to do so on their nearing each other in the dark, and of having fired a broadside into the sloop without provocation, which might at once have sunk so small a vessel, I am convinced I need only appeal to the justice of the American government, for that government to see in it's proper light the magnitude of the outrage, and offer to his majesty every reparation that can appear due.

It is with great pleasure, sir, that I avail myself of this opportunity to acknowledge the promptness with which you came forward with the assurances alluded to in the first part of this letter, and the readiness which you shewed to receive any communications from me in regard to the unhappy occurrence which forms the subject of the remainder.

I have the honor to be, &c. &c.

(Signed)

AUG. J. FOSTER.

The honorable James Monroe, &c. &c.

Mr. Munroe to Mr. Foster.

SIR, *Department of State, July 16, 1811.*

I have had the honor to receive your note respecting the late encounter between the American frigate the *President* and his Britannic majesty's sloop of war the *Little Belt*.

It is very satisfactory to find that you received the communication which I had the honor to make to you, in our first interview on the subject of your inquiry relative to that unfortunate occurrence, in the amicable spirit in which it was intended. Although the excitement which had been produced by previous and recent aggressions, particularly by the impressment of American citizens from American vessels, even on the coast of the United States, was great, yet no order had been given by the government for the recovery by force, of any citizen so impressed, from any British ship of war. The orders given to the commanders of the frigates and other armed vessels of the United States were for the protection of their coast, and of their commerce within the legitimate limits.

I need not repeat to you, sir, the sincere regret of this go-

vernment that such an encounter took place, and more especially that it should have produced the unfortunate consequences which attended it.

I have the honor to be, &c.

(Signed)

JAS. MONROE.

Augustus J. Foster, Esq. &c.

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 24, 1811.

I have had the honor to receive your letter dated on the 16th instant, in answer to mine of the 3d, in which I expressed a desire to have stated in a more formal manner, your denial to me of orders having been given to commodore Rodgers which could under any construction authorise that commander to attack any of his majesty's ships of war, in search of any person claimed as an American seaman, and in which I also demanded that an examination should be instituted into that officer's conduct with a view to suitable reparation being afforded to his majesty, for what appears a wanton and unprovoked attack made by the frigate under his command upon his majesty's sloop of war the *Little Belt*.

The denial I asked for you have given me, and I beg to assure you, sir, that though I troubled you with the demand, because the extensiveness of the rumour which had attributed such orders to the American government, had made it my duty so to do; yet I never entertained an idea for one moment that the government of the United States could have issued such orders, because they must have been considered as manifestations of direct intentions of hostility which would have been incompatible with the relations of amity subsisting between America and Great Britain.

On such a point, sir, a simple denial was all I asked and what I expected to receive. It was therefore with pain that I found you had connected it with allusions to other topics, calculated to produce irritation, on which, whatever complaints you may have to make to me, I shall be ever ready to receive and forward them for redress to the commander in chief of his majesty's naval forces at Halifax, or to his majesty's government, but the mentioning of which in your note in answer to mine on a distinct subject of the most serious importance, you will pardon me if I must consider as matter of regret, especially as you wished me to receive the communication you made me as given in an amicable spirit.

Moreover from the tenor of the part of your letter in which you have connected the question of impressment with that of an attack on a British ship of war, an inference is forced upon

me, which you surely never could have meant me to draw; but which, nevertheless, the passage conveys, namely, that, *although* the government of the United States had not given orders for the recovery by force of any American citizen claimed from a British national ship, they still maintain they might have been justified in so doing. The right of searching a ship of war has been so positively disavowed on the part of his majesty's government, and so disclaimed by that of America, that I could not have expected any doubts would ever again have been thrown on the matter, and yet the language of your letter, until it is explained, will certainly authorise such doubts as far as relates to the American government.

I have no answer at all from you, sir, to my demand for an inquiry being instituted into the conduct of captain Rodgers. This omission has occasioned to me the more surprize, because in addition to there appearing to be no cause why the government of America should decline to listen to so just a demand on my part, there seemed to be every reason why they should even for their own satisfaction have desired to clear up the circumstances of his most extraordinary proceeding. I will indeed frankly own to you that I did think on reaching this city to have found that officer's conduct already, by the spontaneous act of the government of United States, undergoing an examination, instead of hearing that he had been sent immediately to sea again, which seemed to denote an approbation of his behaviour; and I thought I could the more rely on this being the course the President would have pursued, from a consideration of that which his majesty's government had taken in the case of the Chesapeake when every reparation practicable at the instant the intelligence reached London of that unfortunate event, was made to you, sir, promptly and unasked for.

I feel the more regret, sir, at the course taken by your government in this affair, because I have been necessarily obliged in consequence to suspend carrying into execution that part of my instructions by which I was directed immediately on my arrival here to offer such further reparation for the attack on the Chesapeake frigate as would, I am convinced, have proved satisfactory. I had the honor to state to you in our first interview that I had such instructions, although I omitted to mention it in my note, because, as you may remember, I expressed to you at the time, it seemed to me the American government might feel more free to act as the justice of the case required, if the two subjects were kept un-

connected; and in this opinion I thought you appeared to concur.

I have the honor to be, &c. . . .

AUG. J. FOSTER.

The hon. James Monroe, Secretary of State.

Mr. Foster to Mr. Monroe.

SIR,

Philadelphia, Sept. 4, 1811.

I have now, by an express messenger from England received the commands of his royal highness the prince regent, acting in the name and on the behalf of his majesty, relative to the late violent aggression committed by the United States' frigate the President on his majesty's ship Little Belt, and I have the honor of communicating to you the enclosed documents which have been transmitted to me by my government to be laid before that of the United States, comprehending a copy of a letter from lord James Townshend, commanding officer at Halifax, dated May 30th, 1811, enclosing a statement of the action by the officers of the Little Belt, the report of the commissioner of his majesty's navy board at Halifax in respect to the damage done the Little Belt, a copy of rear admiral Sawyer's letter, enclosing his instructions to captain Bingham, as well as a list of killed and wounded on board the sloop of war; and finally a copy of the correspondence on the subject which took place between the marquis Wellesley and Mr. Smith, American charge d'affairs in London, of that of captain Bingham's official letter you are already in possession.*

In communicating to you, sir, these documents, I am particularly directed to call your attention to the instructions of admiral Sawyer, which furnish the strongest evidence of the pacific and friendly intentions of his majesty's government towards this country. The very pointed manner in which the commander in chief on the Halifax station had enjoined captain Bingham to avoid giving offence to the government or subjects of the United States, is of itself presumptive proof of the truth of that officer's statement, even if there were not such strong evidence as appears from the deposition of the different officers on board his majesty's ship as to the action having been commenced by captain Rodgers.

His majesty's government were entitled to expect, as I have had already the honor to observe to you, sir, in my former letter, that the American government would have manifested

* *The public is so well acquainted with these documents, that it is deemed unnecessary to attach them to this pamphlet.*

a prompt disposition to obviate, by an early disavowal and by just reparation, the necessary tendency of such an event to disturb the friendship subsisting between the two states, and this expectation was the more natural from the example afforded by his majesty's government in the case of the *Chesapeake*.

Such, however, having not been the case, I am commanded by his royal highness to lose no time in communicating to you the papers enclosed, which explain in the fullest manner the circumstances of the transaction, and the very great extent of the outrage committed, by which so many valuable lives were sacrificed, and in demanding the immediate disavowal on the part of the United States of the act of aggression committed against his majesty's ship, as also in requiring a just reparation of the injury received.

I have the honor to be, &c.

(Signed)

AUG. J. FOSTER.

The hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Foster.

SIR,

Department of State, Sept. 14, 1811.

I have had the honour to receive your letter of the 4th inst. respecting the encounter between the United States' frigate the *President* and his Britannic majesty's ship *Little Belt*, which I have laid before the President of the United States.

In the first interview which took place between us, after your arrival at Washington, I stated explicitly that no instruction had been given to take any seaman from on board a British ship of war, nor any order whatever of a hostile nature. I made the same declaration afterwards, at your request, in a more formal manner; and it is with the same frankness that I now again repeat it.

Such a declaration was deemed proper, in order to obviate misapprehensions, which might obstruct any conciliatory and satisfactory propositions with which you might be charged. It was in conformity also with the candor and friendly policy which have been shown by this government in all its transactions with Great Britain.

If the answer to your former letter was limited to this disavowal of hostile intentions on the part of this government, it need scarcely be remarked that no further view of the subject could then, nor as yet can, be entered into, on the demand of the British government, without forgetting an essential preliminary to such a demand.

It might be added, that with the circumstances of the transaction, as officially before this government, the true ground on which it claimed attention, was that of a violent

aggression by a British on an American ship, in a situation and manner authorising the strongest appeal to the British government for redress. If an instant representation and demand to that effect were not made, it was a proof only that this government permitted the event of the encounter to temper the feelings and retard the complaint, prompted by the origin and character of it.

It is not seen without surprise, that the case of the Chesapeake is cited as an example supporting a demand of reparation in the present case. No other remark will be made than that the fifth year is now elapsing without reparation in that case, although so palpably and even confessedly due to the rights of the United States and the honour of their flag.

In the instruction to captain Bingham thus frankly communicated, the President sees a token of amity and conciliation, which if pursued in the extent corresponding with that in which these sentiments are entertained by the United States, must hasten a termination of every controversy which has so long existed between the two countries.

I have the honor to be, &c. &c.

(Signed)

JAS. MONROE.

Augustus J. Foster, Esq. &c. &c.

Mr. Monroe to Mr. Foster.

SIR, *Department of State, October 11, 1811.*

I have the honour to transmit to you a copy of the proceedings of a court of inquiry, held by order of the President on the conduct of commodore Rodgers, in the late encounter between a frigate of the United States the President, and his Britannic majesty's ship the Little Belt.

The result of this inquiry, which was conducted in public, in a manner the most fair and impartial, and established by the concurrent testimony of all the officers of the American ship, and of others whom it was proper to summon, cannot, it is presumed, leave a doubt in the mind of any one, that captain Bingham made the attack and without a justifiable cause.

That commodore Rogers pursued a vessel which had at first pursued him, and hailed her as soon as he approached within a suitable distance, are circumstances which can be of no avail to captain Bingham. The United States have a right to know the national character of the armed ships which hover on their coast, and whether they visit it with friendly or illicit views. It is a right inseparable from the sovereignty of every independent state, and intimately connected with their tranquillity and peace. All nations exercise it, and none with more rigor or at a greater distance from the

coast, than Great Britain herself, nor any on more justifiable grounds than the United States. In addition to the considerations which have recommended this precaution to other powers, it is rendered of the more importance to the United States, by the practice of armed vessels from the West-Indies, in visiting our coast for unauthorised and even piratical purposes. Instances have also occurred in which the commanders of British ships of war, after impressing seamen from American vessels, have concealed their names and the names of their ships, whereby an application to their government for the reparation due for such outrages, with the requisite certainty, is rendered impracticable. For these reasons, the conduct of commodore Rodgers, in approaching the Little Belt to make the necessary inquiries and exchange a friendly salute, was strictly correct.

The President, therefore, can regard the act of captain Bingham no otherwise than as a hostile aggression on the flag of the United States, and he is persuaded that his Britannic majesty, viewing it in the same light, will bestow on it the attention which it merits.

I have the honor to be, &c.

(Signed)

JAS. MONROE.

Augustus J. Foster, Esq. &c. &c.

Mr. Foster to Mr. Monroe.

SIR, *Washington, October 24, 1811.*

I have had the honor to receive your letter of the 11th instant, enclosing a copy of the proceedings of a court of inquiry held by order of the President of the United States on the conduct of commodore Rodgers in the late encounter between a frigate of the United States the President, and his majesty's ship the *Lille Belt*, fixing on captain Bingham the charge of having commenced the engagement, and claiming, in consequence, the attention of his majesty's government towards it as to an act of hostility on the part of the British officer.

I may be permitted to remind you, sir, that after I had ascertained from you that no hostile intentions on the part of the government of the United States were connected with the proceedings of captain Rodgers, all I asked in the first instance was that the President of the United States would be pleased to order an inquiry into his conduct, which had tended so seriously to interrupt the harmony subsisting between our two countries, and which having hitherto received no palliation whatever from any evidence in contradiction to captain Bingham's statement, as officially transmitted to his

majesty's government, must have continued to appear to them to be utterly incapable of receiving any.

The document you have now done me the honor to communicate to me, with the copy annexed of captain Rodgers' letter, (for the first time officially before me,) is however so far satisfactory, as it shows that captain Rodgers has endeavored to exculpate himself, exhibiting the ground on which he rests his defence, and I shall without delay transmit it to be laid before his royal highness the prince regent. It certainly proves a most unaccountable difference to exist between the statement of the commander and officers of the *Lille Belt* and those of the President, as to the firing of the first gun; but I must remark that from the concurrent testimony of several of the United States' ship, as to the orders given by captain Rodgers on hearing the *Lille Belt*, there appears to have been an impression on his mind, that an encounter was to ensue, and as the *Lille Belt* was evidently endeavoring to avoid him, such an idea it would seem could only have arisen from the opinion he entertained of his own proceedings as being likely to bring it on.

I take this occasion to acknowledge the receipt of your letter, dated September 14, in answer to mine of the 2d, a copy of which I immediately forwarded to my government.

I have the honor to be &c

(Signed)

AUG. J. FOSTER.

The Hon. James Monroe, &c. &c.

AN ACT

Declaring WAR between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America and their dependencies.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That WAR be and the same is hereby declared to exist between the United Kingdom of Great Britain and Ireland and the dependencies thereof, and the United States of America and their territories; and that the President of the United States be and is hereby authorised to use the whole land and naval force of the United States to carry the same into effect, and to issue to private armed vessels of the United States commissions or letters of marque and general reprisal, in such form as he shall think proper, and under the seal of the United States, against the vessels, goods, and effects of the government of the same United Kingdom of Great Britain and Ireland, and of the subjects thereof.

June 18, 1812—Approved,

JAMES MADISON.

